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No. 240] NEW DELHI, SATURDAY, JUNE 30, 1962/ASADHA 9, 1884

MINISTRY OF LABOUR AND EMPLOYMENT NOTIFICATION

New Delhi-2, the 13th June 1962

S.O. 2028.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the National Industrial Tribunal, Bombay, in the industrial dispute referred to the said Tribunal by the notifications of the Government of India, in the Ministry of Labour and Employment, Nos. S.O. 705, 1449 dated respectively the 21st March, 1960 and the 4th June, 1960.

BEFORE THE NATIONAL INDUSTRIAL TRIBUNAL (BANK DISPUTES) AT BOMBAY.

REFERENCE No. 1 of 1960.

In the matter of disputes between the Banking Companies and Corporations specified in Schedule I to the Order No. S.O. 705, dated the 21st March 1960 and in the Schedule to the Order No. S. O. 1449, dated the 4th June 1960 of the Government of India in the Ministry of Labour and Employment,

and

Their workmen.

PRESENT:

The Honourable Shri Justice Kantilal T. Desai, Presiding Officer of the National Industrial Tribunal (Bank Disputes), Bombay. (Now Chief Justice of the High Court of Gujarat).

APPEARANCES:

As in Appendix B.

INDUSTRY: Banking.

PLACE: Bombay.

Dated, the 7th June, 1962.

AWARD

CHAPTER I

INTRODUCTORY

1.1. By a Notification bearing No. S. O. 704, dated New Delhi the 21st March 1960 the Central Government in exercise of the powers conferred by section 7B of the Industrial Disputes Act, 1947, constituted a National Industrial Tribunal with headquarters at Bombay and appointed me as the Presiding Officer of the Tribunal. A copy of the Notification forms part of Appendix A.

1.2. By an Order bearing No. S. O. 705, dated New Delhi, the 21st March 1960, the Central Government being of the opinion that an industrial dispute existed or was apprehended between the banking companies and corporations specified in Schedule I to the said Order and their workmen in respect of matters specified in Schedule II thereto, which were either matters in dispute or matters connected with or relevant to the dispute, and that the dispute involved questions of national importance and also was of such a nature that industrial establishments situated in more than one State were likely to be interested in, or affected by such dispute, and being further of the opinion that the dispute should be adjudicated by a National Tribunal, in exercise of the powers conferred by sub-section (1A) of section 10 of the Industrial Disputes Act, 1947, referred the said dispute to this National Tribunal for adjudication. Schedule I to that order specifies the names of 67 Banks. Schedule II refers to 22 matters in all. A copy of the said Order forms part of Appendix A.

1.3. By another Order, bearing No. S. O. 706, dated New Delhi, the 21st March 1960, the Central Government in exercise of the powers conferred by sub-section (3) of section 10 of the Industrial Disputes Act, 1947, prohibited the continuance of the strike which was then in existence in the State Bank of India. A copy of the said Order forms part of Appendix A.

1.4. By a further Order bearing No. S. O. 1449, dated New Delhi the 4th June 1960 the Central Government being of the opinion that the dispute which had been referred by the earlier Order bearing No. S. O. 705, dated the 21st March 1960, was of such a nature that the establishments in the banking companies and corporations specified in the Schedule to the said Order dated the 4th June 1960, were likely to be interested in or affected by such dispute, in exercise of the powers conferred by sub-section (5) of section 10 of the Industrial Disputes Act, 1947, included in the said reference the banking companies and corporations specified in the said Schedule. In the said Schedule, the names of 17 banks have been set out. A copy of the said Order forms part of Appendix A.

1.5. As a result of the aforesaid Orders, the dispute in respect of the 22 matters referred to in Schedule II to the Order bearing No. S. O. 705, dated the 21st March 1960 to all the 67 banking companies and corporations referred to in the Order banking companies and corporations on the one hand and their workmen on the other.

1.6. It took some time to set up the secretariat of the Tribunal. On 19th May 1960 a preliminary informal meeting was held at which representatives of a number of banking companies and corporations and of some of the important workmen's organisations attended. At that meeting, the wishes of those who attended in connection with the filing of the statements of claim and the filing of the written statements to such statements of claim were ascertained. As a result of the informal discussions which took place, notices were issued bearing date 20th May 1960 to all the 67 banking companies and corporations referred to in the Order bearing No. S. O. 705 dated the 21st March 1960 and their workmen, requiring the workmen to file their statements of claim on or before the 10th June 1960 and requiring the banking companies and corporations to file their written statements in reply to such statements of claim on or before the 11th July 1960 and fixing the date of the hearing of the Reference as the 20th July 1960. By the said notices the banks concerned were required to cause a copy of the notice to be served upon the secretary or where there was no secretary upon the principal officer of the Trade Union or Unions of their workmen and to exhibit a copy of it by affixing it at or near the main entrance of all their establishments. The banks were also requested to exhibit a translation of the said notice in the regional language of the place where the notice was exhibited and to intimate to this Tribunal about the aforesaid requirements having been carried out by making and filing an affidavit to that effect. After the receipt of the Order bearing No. S. O. 1449, dated the 4th

June 1960, whereunder 17 more banks were included in the Reference, notices dated 8th June 1960 were issued requiring the workmen of the newly included banks to file their statements of claim on or before the 25th June 1960 and requiring the banks concerned to file their written statements on or before the 11th July 1960 and fixing the date of the hearing of the Reference in their case also as the 20th July 1960. These notices contained other directions similar to those contained in the notices dated the 20th May 1960. The aforesaid notices have been duly served upon the banks concerned and their workmen.

1.7. On 25th May 1960, the All India Bank Employees Association filed an application, being Miscellaneous Application No. 2 of 1960, dated the 24th May 1960, claiming 25% of wages with a minimum of Rs. 25 per month by way of interim relief. By Miscellaneous Application No. 4 of 1960, dated the 25th May 1960, the New Citizen Bank of India Supervisory Staff Union claimed interim relief at the rate of 25% of the basic salary with a minimum of Rs. 25 per month. The All India Bank Employees Federation, by their application being Miscellaneous Application No. 7 of 1960, dated the 1st June 1960 applied for 25% of wages as and by way of interim relief for all workmen. The State Bank of India Employees Association (Bengal Circle) by Miscellaneous Application No. 5 of 1960, dated the 25th May 1960, applied for interim relief for the workmen of the Bengal Circle of the State Bank of India at the rate of Rs. 25 per month. The Surat Bank Employees Union by Miscellaneous Application No. 8 of 1960, dated the 9th June 1960 and the Vadodra Rajya Bank Nekar Sangh by Miscellaneous Application No. 9 of 1960, dated the 8th June 1960 also asked for interim relief at "25% of the basic wages with a minimum of Rs. 25 per month for all the employees with effect from 1st April 1959". The State Bank of India Staff Union, Andhra Pradesh, by Miscellaneous Application No. 14 of 1960, dated the 14th June 1960 applied by way of interim relief, wages for the strike period and other reliefs for the workmen of the State Bank of India, Andhra Pradesh. The State Bank of Patiala (All Cadres) Employees Association by Miscellaneous Application No. 28 of 1960, dated the 16th June 1960 claimed by way of "immediate relief" 25% of wages with a minimum of Rs. 25. After 17 more banks were included in the Reference by the Order dated the 4th June 1960, the All India Bank Employees Association by Miscellaneous Application No. 24 of 1960, dated the 21st June 1960, applied for interim relief also on behalf of the workmen of the newly included banks. The Pandyan Bank Employees' Union by Miscellaneous Application No. 301 of 1960, dated the 12th August 1960, adopted the application for interim relief filed by the All India Bank Employees' Association and asked for further relief. The All India State Bank of India Staff Federation which did not for some time participate in the proceedings before the Tribunal by Miscellaneous Application No. 293 of 1960, dated the 19th September 1960, claimed by way of interim relief the abolition of Class IV area, the payment of Rs. 25 per month to every worker, the payment of wages for the period of strike and the making good the loss due to the non-implementation of the award as enumerated.

1.8. On the 8th June 1960, another application was filed by the All India Bank Employees Association claiming travelling allowance and halting allowance for halting at Bombay for 71 representatives of the Association. This application was followed up by various other applications made by the constituent units of the All India Bank Employees Association and by various Associations and Federations numbering over 800 for the grant of travelling allowance and halting allowance during the time the representatives of workmen attended the proceedings before this Tribunal at Bombay. Facilities were also sought for the representatives of the unions to remain present during the proceedings.

1.9. The question relating to the number of representatives of the various Associations and Federations who should attend the proceedings before the Tribunal considerably agitated the minds of the workmen appearing before the Tribunal. It was urged on behalf of the workmen that the workmen were entitled to be paid travelling allowance and halting allowance during the time they stayed in Bombay for the purpose of preparing the case of the workmen and for presenting the same before the Tribunal and that considerable hardship would be caused to the workmen if such allowances were not paid. The question of the grant of travelling allowance and halting allowance was at one stage linked up with the question of the representation of parties by legal practitioners as some of the banks were desirous of being represented by legal practitioners before the Tribunal. By section 36(4) of the Industrial Disputes Act, 1947, it has been provided that in any proceeding before a National Tribunal a party to a dispute may be represented by a legal practitioner with the consent of the parties to the proceedings and with the leave of the National Tribunal.

1.10. The Supreme Court in the case of the Punjab National Bank Ltd. *vs.* Industrial Tribunal, Delhi, and others, reported in 1957 Supreme Court Reports, Page 220 [1957(1)LLJ 455], has held that it was a negation of Justice and reason to direct the employer to pay in advance the travelling allowance and halting allowance costs of the Union representatives irrespective of the final result of the proceedings and that the practice followed by some of the Tribunals in awarding the same was unwarranted by law and principles of reason and justice. In that case the Supreme Court set aside the order of the Industrial Tribunal, Delhi, granting travelling and halting allowance to the representatives of the various Unions pending the proceedings before the Tribunal. The Supreme Court in another case reported in 1960(1)LLJ page 567 between Rohtas Sugar Ltd., and others and Mazdoor Seva Sangh and others set aside the order of the Labour Appellate Tribunal at Dhanbad, whereunder the Labour Appellate Tribunal had confirmed the order of the Industrial Tribunal which had awarded travelling allowance and halting allowance to workmen and which had directed that the workmen attending the proceedings before the Industrial Tribunal should be treated as being on special leave with pay for the period of such attendance. In view of the aforesaid decisions, it was not possible for me to give any relief to the workmen in connection with the grant of halting and travelling allowance or to issue any directions that the workmen should be treated as being on special leave with pay for the period during which they attended the proceedings before this Tribunal.

1.11. The aforesaid legal position was pointed out to the representatives of the workmen. Negotiations took place between some of the parties in connection with the grant of halting and travelling allowance. Some of the banks being somewhat keen on having their case represented by legal practitioners, the All India Bank Employees' Association on 21st June, 1960 filed a note before this Tribunal in which it was stated as under:—

"In terms of clause 38(4) of Industrial Disputes Act, 1947 the Association records its objection to the appearance of any lawyer in the adjudication proceedings under the above reference."

1.12. The All India Bank Employees' Association, the State Bank of India Employees' Association (Bengal Circle), the Northern India Banks' Association and others filed applications for holding the sittings of the Tribunal at different places throughout the country.

1.13. The question of the grant of halting allowance and travelling allowance to workmen and the question of some of the parties being represented by legal practitioners was considerably agitating the minds of the parties and the hearing had to be adjourned in order to enable the parties to arrive at some amicable settlement. By 18th July, 1960 it seems that some understanding was arrived at. On that day the All India Bank Employees' Association addressed a letter to the Bombay Exchange Banks Association, a copy whereof was sent to this Tribunal, wherein it was stated that the Association had exercised its right under the Industrial Disputes Act in informing the Tribunal of its objection to the appearance of counsel, but on a reconsideration it was prepared to waive the said objection "to help create a congenial atmosphere" and expressed a hope that the Bombay Exchange Banks Association would also "reciprocate in other matters". A similar letter was addressed to the Attorneys of the Indian Banks Association and a copy thereof was sent to the Tribunal. Ultimately the objection to the appearance of parties by legal practitioners was withdrawn and it appears that some arrangement was arrived at in connection with the payment of halting allowance and travelling allowance. An agreement in writing arrived at in this connection between the All India Bank Employees' Association and the Travancore Cochin Bankers' Association, bearing date the 18th July, 1960, was filed before this Tribunal. Under the terms of that agreement, it is, *inter alia*, provided that the member banks of the Travancore Cochin Bankers Association *viz.* The Palai Central Bank Ltd., the Travancore Forward Bank Ltd. and the South Indian Bank Ltd. would pay halting and travelling allowance to not more than three employees, one from each of the above banks, to assist the All India Bank Employees Association in the preparation and presentation of its case, that all these three employees would be treated as on "duty leave" while they attend the Tribunal at Bombay i.e. they would continue to draw their emoluments payable at their duty stations and would be the purpose of other benefits and that they would be paid allowances as under:—

class return fare to each employee; and

- (b) Rs. 10 per day to each employee from the date of departure from the ordinary duty station to the date of return to such duty station,

provided that when the hearing before the Tribunal was adjourned for long periods the employees concerned would return to duty and the fare as above would be payable on each round trip.

1.14. Ultimately with the consent of the parties and with the leave of this Tribunal most of the banks and employees Associations and Federations were in fact represented by legal practitioners, a number of whom had specialised in labour laws. A list of persons who appeared before the Tribunal during the course of the hearing of the main Reference on behalf of the banks and their workmen will be found in Appendix B.

1.15. As stated in the order of reference dated 21st March, 1960 the dispute before me involves question of national importance. Often complicated and important questions of law have arisen for determination by me. The constitutional validity of section 34A of the Banking Companies Act, 1949, was questioned before me and the matter was ably argued by distinguished lawyers. Questions relating to the jurisdiction of the Tribunal, its powers and authority, the true scope and effect of the orders of reference and the very right of the authority making the reference in connection with some of the items mentioned in schedule II to the order of reference dated 21st March, 1960 were raised before me in the course of the hearing. Full justice would not have been done to these matters if the legal practitioners who had specialised in labour and constitutional matters had not appeared before me. In deciding these questions I have received considerable assistance from legal practitioners appearing before me. In connection with matters which come up for adjudication before National Tribunals, it is desirable that the Tribunals should have the discretion to permit any party to be represented by a legal practitioner irrespective of the consent of the other parties to the proceedings. Where the stakes are large and the matters are complex, it should not be placed within the power of any party to withhold its consent to any other party being represented by a legal practitioner until due compliance with some of its demands, however reasonable they may be from its point of view, and to use the power of according its consent as a lever for securing compliance with any of its demands. At the same time a National Tribunal with its headquarters at one place when dealing with matters affecting employees all over the country employed in establishments situate in various parts of the country should be in a position to give the requisite directions which would enable the representatives of the workmen to appear before the Tribunal for presenting their case and remain present throughout the hearing which may last for a fairly long period.

1.16. The regular hearing of the applications for Interim Relief commenced on 12th September, 1960. After arguments were advanced at considerable length by the numerous parties appearing before the Tribunal, the hearing was concluded on 14th November, 1960. The award of this Tribunal in connection with the aforesaid applications will be found in Appendix C.

1.17. Applications were made by various Unions and Associations and Federations of workmen for production of certain documents by some of the banks concerned in this reference. The earliest application was filed on 9th June, 1960 by the All India Bank Employees' Association. Before the applications were actually heard, the Banking Companies Act, 1949, was amended with effect from 26-8-1960 by adding therein a new section 34A. That section provides as under:—

- "(1) Notwithstanding anything contained in section 11 of the Industrial Disputes Act, 1947, or any other law for the time being in force, no banking company shall, in any proceeding under the said Act or in any appeal or other proceeding arising therefrom or connected therewith, be compelled by any authority before which such proceeding is pending to produce, or give inspection of, any of its books of account or other document or furnish or disclose any statement or information, when the banking company claims that such document, statement or information is of a confidential nature and that the production or inspection of such document or the furnishing or disclosure of such statement or information would involve disclosure of information relating to—

- (a) any reserves not shown as such in its published

- (b) any particulars not shown therein in respect of provisions made for bad and doubtful debts and other usual or necessary provisions.
- (2) If, in any such proceeding in relation to any banking company other than the Reserve Bank of India, any question arises as to whether any amount out of the reserves or provisions referred to in sub-section (1) should be taken into account by the authority before which such proceeding is pending, the authority may, if it so thinks fit, refer the question to the Reserve Bank and the Reserve Bank shall, after taking into account principles of sound banking and all relevant circumstances concerning the banking company, furnish to the authority a certificate stating that the authority shall not take into account any amount as such reserves and provisions of the banking company or may take them into account only to the extent of the amount specified by it in the certificate, and the certificate of the Reserve Bank on such question shall be final and shall not be called in question in any such proceeding.
- (3) For the purposes of this section, "banking company" shall have the meaning assigned to it in the Industrial Disputes Act, 1947."

After the enactment of this new section, various banking companies and corporations claimed that some of the documents sought to be produced and the information disclosed thereby were of a confidential nature and that the production or inspection of such documents and the furnishing or disclosure of such information would involve disclosure of information relating to reserves not shown as such by the banks concerned in their published balance sheets or any particulars not shown therein in respect of provisions made for bad and doubtful debts and other usual or necessary provisions. The All India Bank Employees' Association, the All India Bank Employees' Federation, the All India State Bank of India Staff Federation, the State Bank of India Employees' Association (Bengal Circle), the State Bank of India Employees' Association (Delhi Circle), the State Bank of India Staff Union, Andhra Pradesh, Vijayawada, the State Bank of India Staff Union, Madras Circle, the All India Bank of Baroda Employees' Federation, the Vadodra Rajya Bank Nekar Sangh, the Indian Overseas Bank Employees Union, Madras and the State Bank of Patiala (All Cadres) Employees' Association challenged the constitutional validity of the new section 34A, on the ground that it violated the fundamental rights guaranteed by Article 14 of the Constitution. A preliminary objection was taken on behalf of a large number of banks to this Tribunal deciding the question whether section 34A is void as aforesaid on the plea that this Tribunal had no jurisdiction to do so. After arguments were advanced at considerable length, this Tribunal passed an order on 31st October, 1960 holding that the provisions of the aforesaid section were validly enacted and were not violative of any fundamental right as alleged. This Tribunal further held that the banking companies were entitled in the present proceedings pending before the Tribunal to make the claim referred to in section 34A of the Banking Companies (Amendment) Act, 1960. A copy of the order made by me in that connection would be found in Appendix D. Special Civil Application No. 14 of 1961 was filed in the High Court of Judicature at Bombay by the State Bank of India Staff Union, Andhra Pradesh, Vijayawada and the State Bank of India Staff Union, (Madras Circle) under Articles 226 and 227 of the Constitution of India challenging the correctness of the aforesaid order. The said application was rejected by the High Court on 16th January, 1961. The All India Bank Employees' Association filed a petition before the Supreme Court for special leave to appeal to the Supreme Court from the decision of this Tribunal and after obtaining such leave filed Civil Appeal No. 154 of 1961 in the Supreme Court against the decision of this Tribunal in connection with section 34A of the Banking Companies Act, 1949. The All India Bank Employees' Association also filed a writ petition under Article 32 of the Constitution in connection with the said decision. The State Bank of India Staff Union, Andhra Pradesh, Vijayawada and the State Bank of India Staff Union, (Madras Circle) also filed similar writ petitions before the Supreme Court. Applications for the stay of proceedings before this Tribunal were made before the Supreme Court and the Supreme Court on 16th February 1961 passed an order that pending the disposal of the Appeal arising out of the aforementioned petition for Special Leave to Appeal and the Writ Petitions, the proceedings in Reference No. 1 of 1960 before this Tribunal should continue but no award should be made. The appeal and the aforesaid applications were heard by the Supreme Court on 17th, 18th, 19th, 24th and 25th April, 1961. The Supreme Court delivered its judgment in connection with the aforesaid matters on 28th August, 1961 unholding the constitutional

validity of section 34A of the Banking Companies Act, 1949, and dismissed the appeal and the petitions with costs.

1.18. On 14th September, 1960, the State Bank of India Staff Union, Andhra Pradesh, Vijayawada filed Miscellaneous Application No. 291 of 1960 for bringing on record the Reserve Bank of India as a party to the present reference. The said application was dismissed after hearing the parties by the order of this Tribunal, dated 18th November, 1960. A copy of the said order will be found in Appendix E. The aforesaid Union filed before the High Court of judicature at Bombay Special Civil Application No. 118 of 1961 challenging the correctness of the aforesaid order under Articles 226 and 227 of the Constitution of India. The said application was summarily rejected by the High Court on the 6th February, 1961.

1.19. On 21st November, 1960 the main hearing of the reference commenced. Whilst the hearing of the reference was going on from day to day, the State Bank of India Staff Union, Andhra Pradesh, Vijayawada and the State Bank of India Staff Union, (Madras Circle) filed a joint application, dated 2nd January, 1961, for the issue of a summons to the Reserve Bank of India, Bombay, directing it to produce through any of its employees the returns submitted by the State Bank of India to the Reserve Bank of India under sections 25 and 27 of the Banking Companies Act during the years 1955 to 1960. By an Order dated 16th January, 1961, this Tribunal dismissed the said application. A copy of the aforesaid decision will be found in Appendix F.

1.20. The All India Bank Employees Federation filed Miscellaneous Application No. 2 of 1961, dated the 19th January, 1961, before this Tribunal in connection with the furnishing of certificates by the Reserve Bank of India under section 34A (2) of the Banking Companies Act, 1949 in respect of 62 Banks appearing before me. Similar applications were made by the All India Bank of Baroda Employees' Federation being Miscellaneous Application No. 3 of 1961, dated 20th January, 1961 and by the Indian Overseas Bank Employees Union, Madras being Miscellaneous Application No. 4 of 1961, dated 20th January, 1961. The aforesaid applications were made without prejudice to the rights and contentions of the applicants in connection with the validity of the Banking Companies (Amendment) Act, 1960 whereby section 34A was inserted in the Banking Companies Act, 1949.

1.21. As a question had arisen before this Tribunal as to whether any amount out of the reserves or provisions referred to in sub-section (1) of section 34A should be taken into account by this Tribunal in considering the financial capacity of the aforesaid 62 banks to bear any increased burden that may be imposed upon them by reason of the award that this Tribunal might make this Tribunal on 20th January, 1961, referred that question to the Reserve Bank of India. This Tribunal further directed that the Reserve Bank of India should in exercise of powers conferred under sub-section (2) of section 34A of the Banking Companies Act, after taking into consideration the principles of sound banking and all relevant circumstances concerning the aforesaid 62 banking companies, furnish to this Tribunal a certificate in respect of each of the aforesaid 62 banks as provided by section 34A(2) stating whether the Tribunal should not take into account any amount as such reserves and provisions of the banking company concerned or may take them into account specifying the extent of the amount to which only the Tribunal may so take them into account. A copy of the order in connection therewith will be found in Appendix G. The aforesaid certificates were received on 24th March, 1961 and have been duly considered by me in making this award.

1.22. After the hearing of the reference had proceeded for a considerably long time, a joint application dated 22nd February 1961 was made by the State Bank of India Staff Union, Andhra Pradesh, Vijayawada, and the State Bank of India Staff Union, (Madras Circle) for the issue of a Commission for recording the evidence of Honourable Shri G. L. Nanda, Minister for Labour and Employment, Government of India, Shri S. A. Dange, a member of the Lok Sabha and Shri S. R. Vasavada, General Secretary of the Indian National Trade Union Congress, Ahmedabad. The said application was supported, inter alia, by the All India Bank Employees' Association. On 7th March 1961, this Tribunal issued a Commission to the District Judge, Delhi for examination viva voce of the Honourable Shri G. L. Nanda, and Shri S. A. Dange and directed that the Commission be returned by 24th April, 1961. The Tribunal also issued a Commission to the District Judge, Ahmedabad for examination viva voce of Shri S. R. Vasavada in

similar terms. In order that the proceedings of the Tribunal may not be delayed, liberty was given to all the parties to join in the Commission and directions were given that any party seeking to examine any witness must give notice to all other parties about that party's intention to do so four days before such witness was examined. The Commissioner appointed by the District Judge, Delhi, examined Shri S. A. Dange on Commission at Delhi. The Commissions were returned unexcepted in respect of the other witnesses. Consequently upon the issue of the Commission the hearing of the reference had to be adjourned to 2nd May 1961. When the hearing was resumed on 2nd May, 1961, an application was made by the State Bank of India Staff Union, Andhra Pradesh, Vijayawada for extending the returnable date of the Commission. The said application was opposed by a number of parties and the same was rejected and the hearing of the reference was resumed. The hearing of the reference was concluded on 4th October, 1961.

1.23. During the pendency of the proceedings before this Tribunal, numerous applications and complaints were made before this Tribunal under section 33 and section 33A of the Industrial Disputes Act, 1947. A considerable number of them were disposed of by this Tribunal. By the Notification of the Ministry of Labour and Employment No. S.O. 3165, dated the 23rd December, 1960, in exercise of the powers conferred by sub-section (2) of section 33B of the Industrial Disputes Act, 1947, the Central Government authorised this Tribunal to transfer proceedings pending before this Tribunal under section 33 or section 33A of the said Act to the Labour Court, Delhi or the Labour Court, Dhanbad. By subsequent notification issued by the Ministry of Labour and Employment No. S.O. 1722, dated 17th July, 1961, in exercise of the powers conferred by sub-section (2) of section 33B of the Industrial Disputes Act, 1947, this Tribunal was authorised to transfer proceedings pending before this Tribunal under section 33 or section 33A of the said Act to the Labour Court, Madras or the Labour Court, Ahmedabad constituted under section 7 of the said Act. After I was appointed as Chief Justice of the Gujarat High Court on 26th January, 1961, most of these applications under section 33 or 33A of the Industrial Disputes Act, 1947, were transferred to various Labour Courts in exercise of the powers conferred by the aforesaid two Notifications.

1.24. The applications filed before this Tribunal for holding the sittings of the Tribunal at various places in the country were ultimately not pressed.

1.25. The Tribunal sat in all for about 178 working days whereout 74 days were devoted to the hearing of various miscellaneous applications in this reference and about 104 days were devoted to the main hearing of this reference.

CHAPTER II

GENESIS OF THE DISPUTE

2.1. Before I deal with the matters which have been referred for adjudication to this Tribunal, it is desirable to review briefly the background of the present dispute. During the second world war there was a rise in the prices of commodities which caused considerable hardship to persons having a fixed income. Efforts were made by various organisations to improve the living conditions of workmen. Banking being an all-India industry, efforts were made by the workmen employed in banks to unite together for the purpose of improving their living conditions. In the year 1946, the All India Bank Employees Association, which is a federation of various unions of workmen working in various establishments of banks throughout the country, was formed with a view to tackle the problems of labour in the banking industry on an all-India basis. There were awards given by various Tribunals in connection with the labour disputes that arose at diverse places in India between some of the banks and their workmen. Banks having branches at numerous places in India became subject to the provisions of different awards at different places. The Government realised the necessity of dealing with the disputes in the banking industry on an all-India basis. The Industrial Disputes (Banking and Insurance Companies) Ordinance (No. VI of 1949) was promulgated on 30th April, 1949, whereunder a banking company was defined to mean a banking company as defined in section 5 of the Banking Companies Act, 1949, having branches or other establishments in more than one Province, and as including the Imperial Bank of India. By clause 4 of that law, it was provided that notwithstanding anything contained in any other law, no authority shall be competent for a Provincial Government or any officer or authority subordinate to such Government to refer an industrial dispute concerning a banking or insurance company, or any matter relating to such dispute,

to any Tribunal or other authority for adjudication, inquiry or settlement. The Central Government acquired the power to refer any dispute pending before a Provincial Tribunal to an Industrial Tribunal constituted under section 10 of the Industrial Disputes Act for adjudication. The aforesaid Ordinance was thereafter replaced by the Industrial Disputes (Banking and Insurance Companies) Act (LIV of 1949).

2.2. On 13th June, 1949 in exercise of the powers conferred by section 7 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government constituted an Industrial Tribunal consisting of Mr. K. C. Sen, a retired judge of the High Court of Judicature at Bombay, as Chairman and two other retired High Court Judges as members for the adjudication of industrial disputes in banking companies. On the same day, the Central Government in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, as it then stood, referred the disputes between the numerous banking companies and their employees for adjudication by the said Tribunal. After considerable labour and industry, the aforesaid Tribunal gave its award on 31st July, 1950, which will hereafter be referred to as the "Sen Award".

2.3. Some of the banks which were parties to the said disputes being dissatisfied with the award applied to the Supreme Court for special leave to appeal against the said award as it had been specially exempted from the jurisdiction of the Labour Appellate Tribunal constituted under the Industrial Disputes (Appellate Tribunal) Act (XLVIII of 1950). The said leave was granted by the Supreme Court. Pending the hearing of the appeal by the Supreme Court, it stayed the operation of the award with regard to (1) its applicability to certain persons who were stated to be officers and not workmen, (2) the directions contained therein regarding bonus and (3) the directions contained therein regarding provident fund. On 9th April 1951, the Supreme Court declared the Sen Award as being void and inoperative for technical reasons relating to the constitution of the Tribunal. The Supreme Court did not deal with any question relating to the merits of any matter dealt with in the award. As a result of the decision of the Supreme Court, disputes which existed in the banking industry remained unresolved. Soon thereafter there were strikes in some banks consequent on certain actions taken by some of the banks. The Central Government felt obliged to pass the Industrial Disputes (Amendment and Temporary Provisions) Act, (XL of 1951), whereunder among other things, the scales of pay and the rate of allowance according to which certain workmen had been paid immediately before 1st April 1951, were temporarily frozen pending any settlement or an award by a new Tribunal.

2.4. The Government of India by a notification dated the 17th July, 1951, constituted an Industrial Tribunal of three persons with Mr. H. V. Divatia, a retired judge of the High Court of Judicature at Bombay as Chairman. The Chairman and the other two members of the Tribunal resigned soon after their appointment.

2.5. By a notification dated the 5th January, 1952, in exercise of the powers conferred by section 7 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government constituted an Industrial Tribunal consisting of Shri S. Panchapagesa Sastry, a retired judge of the High Court of Judicature at Madras, as Chairman and Shri M. L. Tappan and Shri V. L. D'Souza as members. The said Tribunal is hereinafter referred to as the "Sastry Tribunal". On the same day, in exercise of the powers conferred by section 10 of the Industrial Disputes Act, 1947, the Central Government referred to the Sastry Tribunal for adjudication disputes relating to numerous banks including banks situated in the then existing part 'B' States and their workmen in connection with 34 different items. The banks comprised in the reference were 129 in number, of which 68 were Scheduled banks and 61 were non-scheduled banks with branches or other establishments in more than one State. After carefully considering all aspects of the matter referred to it, the Sastry Tribunal gave a very detailed and exhaustive award in the month of March, 1953. The said award is hereinafter referred to as the "Sastry Award".

2.6. A large number of the employees and some of the banks concerned in the dispute felt aggrieved by the provisions contained in the Sastry Award and preferred appeals therefrom before the Labour Appellate Tribunal. A special bench of the Labour Appellate Tribunal consisting of Shri F. Jeejeebhoy, Shri D. E. Reuben and Shri A. Dasgupta was formed for the purpose of deciding those appeals. On 28th April 1954 the Labour Appellate Tribunal gave its decision in the matter giving larger benefits to the employees of the banks than as given under the Sastry Award. The said decision is hereinafter referred to as the "Labour Appellate Tribunal decision".

2.7. The Labour Appellate Tribunal decision gave rise to considerable misgivings in the minds of some of the bankers. They apprehended that the Labour Appellate Tribunal decision would adversely affect the banking industry and that the burden imposed thereby was beyond the capacity of some of the banks and would result in the closure thereof. After the Labour Appellate Tribunal decision was published, it was represented to Government that the impact of the decision on the banking business of the country would be very adverse and that it was not unlikely that in many cases individual units of the banking sector would be in serious jeopardy. In order to be in a position to consider this representation on merits the Government desired to collect relevant information on the subject. The Reserve Bank of India under instructions from the Government of India carried out a rapid survey of the possible effects of the Labour Appellate Tribunal decision on the working of some banks by way of sample. As a result of the material gathered by the Central Government, it came to the conclusion that it would be inexpedient on public grounds to give effect to the whole of the decision of the Labour Appellate Tribunal. By an order, dated the 24th August 1954, the Central Government modified the Labour Appellate Tribunal decision in certain respects.

2.8. The interference of the Government with the Labour Appellate Tribunal decision raised a wave of discontent amongst the bank employees. Ultimately on 17th September 1954 the Government appointed a one-man Commission consisting of Shri Justice G. S. Rajadhyaksha a judge of the Bombay High Court,

(1) "to enquire into and ascertain the effects on the emoluments which the employees were in receipt of prior to August 1954,

- (a) of the Appellate Tribunal Decision without modification,
- (b) of the Appellate Tribunal Decision as modified by Government's Order No. S.R.O. 2732, dated the 24th August 1954.

(2) to ascertain,

- (a) the additional burden on individual banks that would have been caused by the Appellate Tribunal Decision over the expenses under the frozen Sen Award,
- (b) the extent and amount of relief obtained by them as a result of the modifications made by Government,
- (c) the additional expenditure now to be borne by banks under the modified decision over the expenditure incurred under the frozen Sen Award that would have been incurred under the Sastry Award.

(3)

(4) to recommend, having regard to the facts ascertained and to the need for ensuring an equitable treatment to bank employees consistent with the capacity to pay of the various classes of banking companies or individual units,

- (a) whether the Appellate Tribunal Decision, as modified, should be continued,
- (b) whether the Appellate Tribunal Decision should be restored and if so whether fully or in part,
- (c) whether the Appellate Tribunal Decision should be enforced with any other modifications considered necessary."

It was further provided that in considering the aforesaid matters, due regard should also be paid to the desirability of avoiding widespread closures of banking companies or their branches, to the necessity to promote development of banking in the country generally and in rural areas in particular and to any possibilities of effecting economies in the expenses of banking companies. The Commission was also asked to consider and recommend what special modifications, if any, were necessary in the Labour Appellate Tribunal decision in order to encourage the spread of banking facilities in the Class IV areas of Part 'B' States and Part 'C' States other than Delhi, Ajmer and Coorg. Shri Justice Rajadhyaksha having died shortly after he had undertaken the burden of the Commission, Government appointed Shri P. B. Gajendragadkar, then a judge of the Bombay High Court, in place and stead of Shri Justice Rajadhyaksha. The said Commission after considerable labour and gathering considerable material made its report on 25th July 1955 making certain recommendations which were subsequently embodied

in the Government of India Industrial Disputes (Banking Companies) Decision (1 of 1955). The said report of the Commission is hereinafter referred to

as the "Bank Award Commission report". By section 3 of the Industrial Disputes (Banking Companies) Decision Act, 1955, it was provided that the decision of the Labour Appellate Tribunal, dated 28th April 1954, would have effect as if the modifications recommended in Chapter XI of the Bank Award Commission report had actually been made therein. By section 4 of the said Act it was provided that the award of the Sastry Tribunal as modified by the decision of the Labour Appellate Tribunal, as further modified by the recommendations of the Bank Award Commission would remain in force until 31st March 1959.

2.9. Among the recommendations made in the Bank Award Commission report there was a recommendation that the Government should, as soon as may be expedient, appoint a Commission to study the problem of the banking system in the Travancore-Cochin State comprehensively *de novo*. The Commission suggested that wide powers should be conferred on the Commission to be appointed so as to enable it to examine not only the financial position of the banks covered by the Sastry Award and the terms and conditions of service of their employees but also similar problems in regard to all the banks in Travancore-Cochin.

2.10. On 19th January 1956 the Government of India appointed the Travancore-Cochin Banking Enquiry Commission consisting of Shri K. Ramuni Menon, I.C.S. (retired) as Chairman and Dr. P. J. Thomas and Prof. M. L. Dantwala as members. The terms of reference of the Commission, *inter alia*, provided as follows:—

- "II(a) to ascertain whether the terms and conditions of service of workmen of the banks (except the Travancore Bank) incorporated in the Travancore-Cochin State to which the provisions of the Industrial Disputes (Banking Companies) Decision Act, 1955, apply should be modified and if so, in what respects, having regard, *inter alia*, to the effects which the terms and conditions of service that may be recommended by the Commission are likely to have on the general economy of the area.
- (b) to examine the terms and conditions of service of workmen in the Banks incorporated in the said State other than those referred to in clause (a) above and to make such suggestions or observations in respect of them as the Commission may deem appropriate, having regard to all relevant considerations, including in particular those mentioned in clause (a)."

The Travancore-Cochin Banking Inquiry Commission made its report on 3rd August 1956.

2.11. In view of the report of the Travancore-Cochin Banking Inquiry Commission, the Central Government enacted the Industrial Disputes (Banking Companies) Decision Amendment Act (40 of 1957) making certain changes in the provisions of the Industrial Disputes (Banking Companies) Decision Act (41 of 1955) referred to earlier affecting *inter alia* the South Indian Bank Limited, Trichur and the Catholic Syrian Bank Limited, Trichur, the Palai Central Bank Limited, Palai, and the Travancore Forward Bank Limited, which were in Class 'C'.

2.12. The Sastry Award modified as aforesaid by the Labour Appellate Tribunal decision and as further modified by the aforesaid Acts is hereinafter referred to as the "Sastry Award as modified". Under the Sastry Award as modified a provision had been made for payment of dearness allowance to the clerical staff and subordinate staff according to certain formulae. By the Industrial Disputes (Banking Companies) Decision Amendment Act, 1958 (38 of 1958) the Central Government acquired the power to make such adjustments therein as it thought fit for any period subsequent to 31st December 1957. In exercise of the powers conferred thereunder, the Central Government by a notification dated the 13th February 1960 has amended the provision relating to the calculation of dearness allowance.

2.13. The statutory period for the operation of the Sastry Award as modified expired on 31st March 1959. There has been considerable expansion of banking as an industry in the country. The workmen employed in banks are dissatisfied with the conditions of service under which they are working. The 15th Session of the Indian Labour Conference, which was held on the 11th and 12th July 1957 laid down certain principles governing wage fixation. The expectations of workmen were aroused thereby throughout the length and breadth of the country. The expectations so aroused have remained unfulfilled, resulting consequent dissatisfaction and unrest. There has been a considerable r

cost of living and the purchasing power of money has declined. The workmen contend that the adjustment in the dearness allowance which is being made under the formula in operation does not sufficiently neutralise the effect of the increase in the cost of living.

2.14. The definition of "workman" given in section 2(s) of the Industrial Disputes Act, 1947, has been amended to cover persons employed in a supervisory capacity drawing wages not exceeding Rs. 500 per mensem provided they do not exercise either by the nature of the duties attached to their office or by reason of the powers vested in them, functions mainly of a managerial nature, with the result that a number of persons, who previously were not workmen have now become workmen within the meaning of the Industrial Disputes Act, 1947.

2.15. In the month of April 1959, the All India Bank Employees Association served notices of termination of the Sastry Award as modified and submitted a fresh Charter of Demands as adopted at the 10th Conference held at Bangalore from 3rd to 7th February 1959 on behalf of the workmen employed in banks. The All India Bank Employees Federation also submitted its Charter of Demands on behalf of the employees employed in banks. Various other Unions also submitted their Charter of Demands. The All India State Bank of India Staff Federation submitted its Charter of Demands on behalf of the workmen employed in the State Bank of India. On 1st February 1960 the said Federation gave a notice of strike and a number of employees of the State Bank of India struck work. On 19th March 1960 the bank employees in various parts of the country struck work in support of their demands as well as in support of the employees of the State Bank of India. On 21st March 1960 this Tribunal was constituted and the dispute mentioned in the Order of Reference was referred to this Tribunal for adjudication and the continuance of the strike in existence in the State Bank of India was prohibited.

CHAPTER III

PARTIES TO THE DISPUTE

3.1. By the two Orders of Reference dated the 21st March 1960 and the 4th June 1960 disputes between 84 banks in all and their workmen have been referred for adjudication to this Tribunal. After the constitution of this Tribunal, material changes have taken place affecting certain banks and their workmen.

I. Stoppage of Banking Business

(1) *Safe Bank Ltd.*—This bank is listed as bank No. 50 in schedule I to the Order of Reference, dated the 21st March 1960. On 22nd June 1961 the Safe Bank Ltd. intimated to this Tribunal that on 31st January 1961 the Reserve Bank of India had sent a notice in writing to the bank informing the bank that licence to carry on banking business could not be granted to it under the proviso to section 22(2) of the Banking Companies Act, 1949, and that as per orders of the Reserve Bank it had stopped banking business with effect from 6th February 1961. As the aforesaid bank has ceased to be a banking company within the meaning of section 2(bb) of the Industrial Disputes Act, 1947, no award is made in connection with the dispute between the said bank and its workmen.

(2) *Thomcos Bank Ltd.*—This bank is shown as bank No. 60 in schedule I to the Order of Reference dated the 21st March 1960. Some of the assets and liabilities of this bank have been transferred to the Bank of Madura Ltd. under an agreement of transfer, dated 12th September 1960, entered into between the Thomcos Bank Ltd. and the Bank of Madura Ltd. Under the terms of the said agreement it is provided that after the transfer of the assets and liabilities therein mentioned the Thomcos Bank would not carry on banking business except to the extent necessary for the realisation of its residuary and other assets and to convert the same into cash. By clause 13 of the said agreement it is provided that the Bank of Madura Ltd. would absorb in its service all the then members of the staff of the Thomcos Bank Ltd. on the same emoluments then obtaining in the Thomcos Bank Ltd. and that in case any of the members of the staff who were not willing to join the services of the Bank of Madura Ltd., the Thomcos Bank would pay to such persons compensation, if any, legally due to them on the termination of their service. The Bank of Madura Ltd. is not a party to the proceedings before me. The All India Bank Employees' Association made an application, dated 11th November 1960 being Miscellaneous Application No. 304 of

1960, for impleading the Bank of Madura Ltd. as a party to the proceedings. The said application was rejected by me.

3.2. In view of the fact that for all practical purposes the Thomcos Bank Limited has ceased to do banking business and to be a banking company and the services of a large number of its employees have been taken over by the Bank of Madura Limited, no award is made in connection with the dispute between the Thomcos Bank Limited and its employees.

II. Banks under Liquidation

(3) *Laxmi Bank Limited.*—This bank is listed as bank No. 33 in schedule I to the order of reference dated the 21st March 1960. This bank has gone into liquidation under an order, dated 28-6-1960, passed by the High Court of Bombay and no award is made in connection with dispute between this bank and its workmen.

(4) *Palat Central Bank Limited.*—This bank is listed as bank No. 44 in schedule I to the Order of Reference dated 21st March 1960. This bank was ordered to be wound up by the High Court of Kerala on 5th December 1960. As this bank has gone into liquidation, no award is made in connection with the dispute between this bank and its workmen.

III. Amalgamation under Section 45 of the Banking Companies Act 1949

(5) *Jodhpur Commercial Bank Limited.*—This bank is listed as bank No. 30 in schedule I to the Order of Reference dated the 21st March 1960. This bank was under moratorium for a period of three months with effect from 6th July 1961. On 16th October 1961 this bank has been amalgamated with the Central Bank of India Limited, Bombay (hereinafter referred to as a transferee bank).

(6) *The New Citizen Bank of India Limited.*—This bank has been listed as bank No. 42 in schedule I to the Order of Reference, dated the 21st March 1960. This bank was under moratorium from 15th November 1960 to 28th April 1961. This bank has been amalgamated with the Bank of Baroda Limited (hereinafter referred to as a 'transferee bank') with effect from 29th April 1961.

(7) *The Travancore Forward Bank Limited.*—This bank is listed as bank No. 61 in schedule I to the Order of Reference dated the 21st March 1960. This bank was under moratorium from 25-10-1960 to 24-3-1961. This bank has been amalgamated with the State Bank of Travancore, Trivandrum, (hereinafter referred to as a 'transferee bank') with effect from 15th May 1961.

(8) *The Bank of Nagpur Limited.*—This bank is listed as bank No. 3 in the schedule to the Order of Reference dated the 4th June 1960. This bank was under moratorium from 27th November 1960 to 26th March 1961. This bank has been amalgamated with the Bank of Maharashtra Limited (hereinafter referred to as a 'transferee bank') with effect from 27th March 1961.

(9) *The Indo Commercial Bank Limited.*—This bank is listed as bank No. 7 in the schedule to the Order of Reference, dated the 4th June 1960. This bank was under moratorium from 25-10-1960 to 24-3-1961. This bank has been amalgamated with the Punjab National Bank Limited, New Delhi (hereinafter referred to as a 'transferee bank') with effect from 25th March 1961.

(10) *The Rayalaseema Bank Limited.*—This bank is listed as bank No. 12 in the schedule to the Order of Reference, dated the 4th June 1960. It was under moratorium from 14-5-1961 to 31-8-1961. This bank has been amalgamated with the Indian Bank Limited, Madras (hereinafter referred to as the 'transferee bank') with effect from 1st September 1961.

3.3. The aforesaid six banks have been amalgamated with other banks. Under the schemes of amalgamation, the workmen employed by the aforesaid six banks, would continue in service and would be deemed to have been appointed by the transferee banks at the same remuneration and on the same terms and conditions of service as were applicable to such employees immediately prior to the date of the respective orders of moratorium. There is a further provision to the effect that the transferee banks would pay or grant, not later than the expiry of the period of 3 years from the dates on which the schemes of amalgamation were respectively sanctioned by the Central Government to such employees the remuneration and the same terms and conditions of service as were applicable to them.

the employees of the respective transferee banks of corresponding rank or status subject to certain qualifications.

3.4. In view of the aforesaid provisions, no award is made in connection with the dispute between the aforesaid six banks which have been amalgamated and the employees of such banks.

IV. Merger

(11) *Lloyds Bank Limited*.—This bank is shown as bank No. 34 in schedule I to the Order of Reference, dated the 21st March 1960. Since 1-1-1961 the business of this bank in India has been transferred to the National and Grindlays Bank Limited and the services of all the employees employed by this bank in India have been taken over by the National and Grindlays Bank Limited.

3.5. No award is made in connection with the dispute between the Lloyds Bank Limited and its employees. The remuneration and the terms and conditions of service of the previous employees of the Lloyds Bank Limited who have now been taken over by the National and Grindlays Bank Limited will be governed by the award made in connection with the dispute between the National and Grindlays Bank Limited and its workmen.

V. Banks in Which settlements have been arrived at

(12) *Salem Bank Limited*.—This bank is shown as bank No. 51 in schedule I to the Order of Reference, dated the 21st March 1960. On 18th January 1961 a consent award has been given in connection with the dispute between this bank and its employees and the said award is published in the Gazette of India, Part II, section 3 (ii), dated the 4th February 1961 at page 357.

(13) *Bank of Tokyo Limited*.—This bank is shown as bank No. 4 in the schedule to the Order of Reference, dated the 4th June 1960. On 10th January 1961 a consent award has been given in connection with the dispute between this bank and its workmen and the said award is published in the Gazette of India, Part II, Section 3 (ii), dated the 28th January 1961 at page 320.

(14) *The Belgaum Bank Limited*.—This bank is shown as bank No 5 in the schedule to the Order of Reference, dated the 4th June 1960. On 20th January 1961 a consent award has been given in connection with the dispute between this bank and its workmen and the said award is published in the Gazette of India, Part II, Section 3 (ii), dated the 11th February 1961, at page 443.

(15) *The Martandam Commercial Bank Limited*.—This bank is shown as bank No. 8 in the schedule to the Order of Reference, dated the 4th June 1960. On 10th January 1961 a consent award has been given in connection with the dispute between this bank and its workmen and the said award is published in the Gazette of India, Part II, section 3 (ii), dated the 4th February 1961, at page 367.

(16) *The Trivandrum Permanent Bank Limited*.—This bank is shown as bank No. 16 in the schedule to the Order of Reference, dated the 4th June 1960. As a result of an agreement arrived at between the Trivandrum Permanent Bank Limited and the Canara Bank Limited selective assets and liabilities of the former bank have been taken over by the latter bank. The All Kerala Bank Employees' Union representing the workmen of the Trivandrum Permanent Bank Limited raised before the Conciliation Officer (Central), Ernakulam a dispute regarding the absorption of the workmen of the said bank in the Canara Bank Limited. A settlement was arrived at in the course of the conciliation proceedings on 16th May 1961 whereunder it was agreed that all the employees of the Trivandrum Permanent Bank Limited other than those who were over 60 years of age on the date of the taking over of the assets and liabilities of the Trivandrum Permanent Bank Limited by the Canara Bank Limited should continue in service and be deemed to have been appointed by the Canara Bank Limited at the same remuneration and on the same conditions of service as were applicable to such employees immediately before the date of taking over. Under the terms of the said settlement it was agreed that the Canara Bank Limited would on the expiry of a period not later than 3 years from the date of the taking over, pay or grant to the employees of the Trivandrum Permanent Bank Limited appointed in the Canara Bank Limited the same remuneration and the same terms and conditions of service as were applicable to the employees of the corresponding rank and status of the Canara Bank Limited subject to the qualifications and

experience of the said employees of the Trivandrum Permanent Bank Limited being the same as or equivalent to those of such other employees of the Canara Bank Limited. A joint application was made by the Canara Bank Limited, the Trivandrum Permanent Bank Limited and the All Kerala Bank Employees' Union on behalf of the workmen of the Trivandrum Permanent Bank Limited that an award should be made by this Tribunal in terms of the settlement arrived at in the course of the conciliation proceeding on 6th May 1961 before the Conciliation Officer (Central), Ernakulam, regarding the terms and conditions of service of the workmen of the Trivandrum Permanent Bank Limited and their appointment in the service of the Canara Bank Limited.

3.6. I have made an award on 7th August 1961 in terms of the settlement arrived at as aforesaid. One of the terms of the said settlement provided that on behalf of the employees of the Trivandrum Permanent Bank Limited the All Kerala Bank Employees' Union should agree to withdraw the dispute or disputes in respect of the employees of the Trivandrum Permanent Bank Limited pending before this Tribunal. In pursuance of the said settlement, the All Kerala Bank Employees' Union, on behalf of the employees of the Trivandrum Permanent Bank Limited withdrew the dispute pending before this Tribunal. The said Award has been published in Gazette of India, Part II, section 3(ii) dated 2nd September 1961, at pages 2165—2172.

3.7. This award will only apply to the banks referred to in the orders of reference, dated the 21st March 1960 and the 4th June 1960, other than the aforesaid 16 banks and to the workmen of the banks other than those of the aforesaid 16 banks.

CHAPTER IV

Item No. 1: CATEGORISATION OF BANKS AND AREAS FOR THE PURPOSES OF THIS ADJUDICATION.

(i) Categorisation of Banks

4.1. The question of categorisation of banks and areas becomes material in connection with the fixation of workmen's scales of pay. The other conditions of service of workmen may also be related to this classification. In the report of the Committee of Fair Wages, it is recommended that fair wages should be determined on an industry-cum region basis. The members of the Committee took the view that it was not feasible then to fix wages on any other basis. In the banking industry where banks have branches in more than one region and where numerous banks have branches all over the country, the Tribunals in the past have given up this approach in preference to an approach based on classification of banks according to their working funds and according to the areas in which they function. No doubt, classification of banks in this manner violates the principle of standardisation of wages in the industry taken as a whole. It equally violates the principle of 'equal pay for equal work'. Tribunals have been compelled to acknowledge the necessity of not applying these principles in connection with banks having branches in more States than one. The profit making capacity of a bank depends to a considerable extent upon the resources of the bank. The bigger banks can command greater facilities from the Reserve Bank of India. The smaller banks have to maintain a position of greater liquidity and easier convertibility. They have sometimes to pay high rate of interest on their borrowings and to offer greater inducements to the depositors. The older banks are able to build up adequate reserves which are equal to or exceed their paid-up capital. In the new banks the reserves are generally low and below the paid-up capital, and under the provisions of section 17 of the Banking Companies Act, 1949, they have to transfer to the reserve fund out of the balance of profit of each year as disclosed in the profit and loss account before any dividend is declared, a sum equivalent to not less than 20 per cent of such profit so long as the reserve fund together with the amount in the share premium account does not equal the paid up capital of the banks. The working funds of a bank consist of its paid-up capital, its reserves and its deposits. Large resources conduce to the greater stability of the institution, and inspire confidence among the depositors. Large deposits themselves to an extent indicate the confidence of the depositors in the institution and in a sense indicate the stability of the institution. The greater a bank enjoys the confidence of the public, the lesser is the rate of interest it has to pay on the deposits made with it, and the lesser is the rate of interest at which it can borrow money. Generally speaking, bank with larger resources is better able to bear the burden of higher wages than a bank with smaller resources. In view of all these circumstances, the norm of working funds has been adopted for the purpose of classification of banks. No doubt from working funds, there are various other factors which affect the pro-

capacity of banks and their capacity to pay wages, but in the absence of better norms of classification which are capable of being applied with certainty and without considerable difficulty, the norm based on the availability of working funds has come to be accepted.

4.2. To the extent that wages are correlated to the needs of the workmen, the cost of articles of consumption and the pattern of consumption become material factors. The same vary in different areas in different parts of the country. The standard of living in different parts of the country is not the same. There is disparity between the cost of living of a person in a city like Bombay or Calcutta where living accommodation is scarce and the standard of life is high and of a person dwelling in semi-urban and rural areas. By and large workmen are available at somewhat lesser rate of wages in semi-urban and rural areas than in cities. Taking diverse factors into consideration, Tribunals have fixed wages and other conditions of service for workmen according to the areas in which they function.

4.3. By his award dated 8th April 1947, Mr. Justice Divatia classified the 30 banks before him into 2 groups: (1) big banks with working funds of about Rs. 15 crores and above, and (2) small banks with working funds of less than Rs. 15 crores. He took the view that standardization of wages was not generally feasible in the business of banking, although the clerical staff did the same kind of work.

4.4. The Sen Tribunal, which was the first all-India Tribunal which dealt with banking industry, classified banks according to the working funds. Its classification according to the average of working funds based on the figures of the 30th June and the 31st December of the year 1949 was as following:—

Class

- (A) Imperial Bank of India and all Exchange Banks included in the reference and all other banks having average working funds of Rs. 25 crores and above.
- (B) Banks having average working funds below Rs. 25 crores and not below Rs. 7½ crores.
- (C) Banks having average working funds of less than Rs. 7½ crores.

4.5. The Sastry Tribunal classified banks into four classes:—

Class

- (A) Banks whose working funds amount to Rs. 25 crores and more and the Exchange Banks.
- (B) Banks whose working funds amount to Rs 7½ crores and more but are below Rs. 25 crores.
- (C) Banks whose working funds amount to Rs. 1 crore and more but are below Rs. 7½ crores.
- (D) Banks whose working funds are below Rs. 1 crore.

The Sastry Tribunal thus provided one class more than what was sought to be provided by the Sen Tribunal. Observing that the case of small banks required special consideration, the Sastry Tribunal in paragraph 55 of its award has stated as follows:—“It is true that this manner of division is to some extent arbitrary but care has been taken to avoid marginal or border line cases”.

4.6. While providing for this rule of classification based on working funds, the Sen Tribunal provided for the transfer of a bank from one class to another having regard to the rise or fall in its working funds below or above the limit prescribed for each class. In paragraph 48 of its award, the Sen Tribunal has observed as follows:—

“We would recommend that if in future it should so happen that the working fund of a particular bank has been below the lower limit or has been higher than the upper limit set for its class continuously for a period of two years, it should then be deemed to have passed into the next lower or the next higher class, as the case may be, provided that the directions made in this award are still being followed by the bank at that date, and provided further that such change will not adversely affect the existing employees.”

The Sastry Tribunal in paragraph 64 of its award made a similar provision with the qualification that the relevant date for calculating the working funds would be 31st December of each year, and that the change over from one group to another should not adversely affect the total emoluments of the existing employees drawn by them on the date of the said change over. For the purpose of this classification, the Sastry Tribunal defined "Working funds" to mean, "paid-up capital, reserves and the average of the deposits for the 52 weeks of each year for which weekly returns of deposits were submitted to the Reserve Bank of India under the provisions of the Reserve Bank of India Act." By paragraph 65 it further directed the banks to publish and exhibit a statement showing such average of the weekly returns of deposits in the first month of the next succeeding calendar year together with a certificate from its auditors as regards the correctness of the statement or a certificate from the Reserve Bank of India to that effect.

47. Shri M. L. Tannan, who was a member of the Sastry Tribunal and who is the author of 'Banking Law and Practice' and who was for some time the General Manager of the Punjab National Bank Ltd., has appended his Minute of Dissent to the Sastry Award in connection with classification of banks into different groups for the purpose of adjudication. In paragraph 650 of the award he has observed as under:—

"Paying capacity of individual banks will, of course, vary, as it is determined by a number of considerations, not always related to the amount of their working funds. These considerations include, among others, the type of business certain banks are particularly interested in. Thus banks undertaking principally foreign exchange business should ordinarily be in a position to show better results, earn higher profits and pay larger dividends. Banks' profits will also depend upon the type of directorate they may have. Banks with influential directors or those connected with large businesses will, no doubt, make a better showing. The managerial abilities of those in charge of banks would also influence their earnings. Further, banks working in important industrial or urban areas are likely to earn more. Even profits, as such may not always be the determining factor in assessing capacity. In this context, we have to take into account the fact that there are some banks which, although they show substantial profits from year to year, are not in a position to appropriate even the major portion of their net earnings towards payment of dividends, as a part of the profits has to be set apart for building up statutory and other reserves including provision for bad and doubtful debts as also for providing depreciation in the value of their investments. To this extent the paying capacity of banks should be qualified. Still another factor which will limit dividends is the proportion of paid-up capital on the one hand to working funds on the other. It would be clear that banks with proportionately larger working funds are not always able to pay higher dividends."

48. In paragraph 655 of his Minute of Dissent he has further stated as under:—

"My colleagues classify banks exclusively on the basis of their working funds. I would add that banks capacity, as determined by profits and dividends should be taken as an equally, if not a more basic factor in determining classification of banks."

He also suggested that an element of elasticity was called for in the classification of banks. He suggested that a bank which has paid, on an average, a dividend of not more than 4 per cent (free of income-tax) over a period of three years should be automatically placed in the class next below that to which it would otherwise belong on the basis of the award and that it would secure the desired measure of relief needed by the banks concerned and that as regards the future the banks which for any two consecutive years were not able to declare a dividend of more than 4 per cent free of income tax should be downgraded and would continue to pay emoluments to their workmen at the lower rate as long as the average rate of dividend for two consecutive years did not exceed 4 per cent.

49. The suggestion of Shri Tannan did not find favour with his colleagues. The suggestion would have had some value if the banks were under a legal

obligation to declare dividends in proportion to their profits and were under a legal obligation to make a complete disclosure about their secret reserves which would reveal the true profits in a given year in their balance sheets. There is, however, no such law. If the upgradation or downgradation of banks depended upon the declaration of certain percentage of dividends, there would be considerable scope for manipulation of dividends by banks having regard to the fact that banks are in a position to set apart large amount; by way of secret reserves without disclosing the same in their published balance sheets and are in a position to declare such dividends as they think proper.

4.10. In the course of his dissenting minute in paragraph 66 Shri Tannan has further observed that he did not consider the growth of small banks a desirable development, both in the interests of the banking industry as well as from the point of view of national development, that small banks were more exposed to financial jolts and would not be easily able to withstand these. He also observed that small banks would not have the resources of big banks and would not be able to give the various facilities which the latter provided to their customers and that the ability of big banks for organized mobilisation of rural resources was also definitely larger. He expressed himself not to be in favour of very small banks and stated that he would like the development of banking in this country to proceed more or less on the same lines as in England where the number of banks was very small but the number of banks office was very large, and that he would like to encourage strong and healthy banks to open branch offices even in comparatively small towns.

4.11. The Labour Appellate Tribunal in giving its decision has observed in paragraph 97 that as regards D Class Banks, they were small banks with limited resources, that for survival these banks would have to be given special consideration and that it was doubtful whether they would be able to sustain a wage structure higher than the minimum wage if immediately imposed. It decided in their case to retain the scales of pay and dearness allowance given by the Sastry Award, subject to the condition that they would apply for a period of not more than 5 years from 1st April 1954, after which period the scales of the 'C' Class Banks would become applicable.

4.12. The Bank Award Commission after considering the various alternative suggestions made for classification of banks by taking into account the ratio of reserves to paid up capital, or the age of the banks, the area of their operations and the type of their predominant business and their turnover or by reference to their average profits and dividend paying capacity and the ratio of the working funds to the total load, and after observing that even on the basis of working funds, it might perhaps be possible to classify banks more satisfactorily by attempting to reduce the very large discrepancies that were present between the top and the bottom of the class, ultimately decided to keep, as far as possible, to the structure of classification which had been adopted by the Labour Appellate Tribunal. The Commission decided to deal with banks falling in A and B classes classwise and to consider the special cases of banks in these two classes that seriously contested their ability to pay. In regard to banks in C class, the Commission decided to deal with the cases of individual banks and to record its conclusions on the capacity to pay individually in respect of each one of these banks.

4.13. In paragraph 66 of its report, the Bank Award Commission has observed as follows:—"It seems to me that in dealing with the dispute between Inter-State banks and their employees, a more rational and more satisfactory basis is supplied by the class-wise approach to the problem." It further observed that in classifying banks, care must be taken to adopt a fair basis for classification and to bring together in one category banks which may be regarded genuinely as homogeneous in all material particulars and that in fixing the wage structure class-wise, care must likewise be taken to fix the wage structure in such a manner that it would not be unduly below the paying capacity of the bank at the top of the class, not unduly above the paying capacity of the bank at the bottom of the class. The Commission further observed that commercial banking was a very competitive business and that it was stated before the Commission by most of the banks in A and B Classes that if wage structures were fixed separately for each one of the banks, it would inevitably lead to dissatisfaction and bickerings between employees and banks and that it was in the interest of the banking business as a whole that the question of giving a fair deal to bankmen should be considered class-wise. In paragraph 67 the Commission has observed that the argument that a class-wise

approach to the solution of this problem attempted to put in a strait-jacket different banks, was apt to overlook the anomalies which seemed to follow from award₃ pronounced bankwise and was presumably based upon the view that the classification adopted by the Tribunals was not as rational or satisfactory as it might have been. The Commission further stated that the class-wise approach in the dispute relating to banking was analogous to the region-wise approach which was generally adopted in dealing with disputes in regard to other industries in the country, and that the essence of a class-wise approach was to consider the paying capacity of the class as a whole.

4.14. In dealing with the argument that one or two units in a class could not bear the burden of the decision of the Labour Appellate Tribunal, the Commission observed that if it had found that the strain on their resources would be unreasonably high and the imposition of the burden of the Labour Appellate Tribunal decision would expose them to a genuine and real risk, it would unhesitatingly have recommended their exemption from the application of the Labour Appellate Tribunal decision. In dealing with C Class banks, the Bank Award Commission observed that when it came to C Class banks, the difficulties of the class approach became glaring and it found that differences in standard of management made for sharp variations in earning capacity, that most of such banks were started by local enterprise and had a wide net work of branches whose operating unit was very small, that the clientele also consisted of middle-class savers, petty traders and small industrialists and that the C Class banks were a mixed bag. After considering bank-wise the case of banks falling within Class C the Commission in substance classified them into two groups, one the group able to bear the burden of dearness allowance awarded by the Labour Appellate Tribunal decision, hereinafter for brevity's sake called "C-1 Class" and the other the group not so able to bear such burden, hereinafter called "C-2 Class" which was only to pay the dearness allowance as provided by the order of modification made by Government, dated the 24th August, 1954.

4.15. As regards banks in the D Class other than those in the then Travancore-Cochin State, the Commission recommended that the position of the D Class banks as at the end of March 1959 should be examined afresh in order to arrive at a decision as to their promotion or otherwise to C Class.

4.16. As regards the banks situated in the then Travancore-Cochin State they presented peculiar problems of their own. The Commission pointed out that the economy of that part of the country was a predominantly small economy, essentially agricultural, and was based on a vast educated lower middle class which formed a majority of the population of that State, that the banking units incorporated in the said area were very small in point of paid-up capital reserves and total resources and in respect of their profits as well, that the State was definitely "over-banked" and that the position of most of the banks was "illiquid". The Commission took the view that it would not be equitable to fix for workmen of these banks salary scales lower than those for D Class banks which represented the minimum wage and that those banks were not entitled to claim that they should be allowed to pay their workmen less than the minimum wage. The commission recommended the complete exemption from the operation of any award of banks incorporated in the Travancore Cochin State other than the Travancore Bank in respect of business within the limits of Area IV for a certain period. It recommended the appointment of a special Commission to study the problems of the banking system in the Travancore Cochin State.

4.17. The Government of India appointed the Travancore-Cochin Banking Inquiry Commission on 19th January 1956 consisting of Shri K. Ramann Menon, I.C.S. (Retired) as Chairman and Dr. P. J. Thomas and Prof. M. L. Dantwala as Members. The terms of reference, amongst others provided as follows:—

"to ascertain whether the terms and condition of service of workmen of the banks (except the Travancore Bank) incorporated in the Travancore Cochin State to which the provisions of the Industrial Disputes (Banking Companies) Decision Act, 1955 apply should be modified and if so, in what respects having regard, *inter alia*, to the effects which the terms and conditions of service that may be recommended by the Commission are likely to have on the general economy of the area."

Out of the banks under reference before this Tribunal, the cases of the following banks have been dealt with by the Travancore-Cochin Banking Inquiry Commission:—

- (1) Palal Central Bank Ltd.,
- (2) Travancore Forward Bank Ltd.,
- (3) Thomcos Bank Ltd.,
- (4) Catholic Syrian Bank Ltd.,
- (5) South Indian Bank Ltd.,
- (6) Ambat Bank Ltd.,
- (7) Chaldean Syrian Bank Ltd.,
- (8) Cochin Commercial Bank Ltd.,
- (9) Indian Insurance and Banking Corporation Ltd.

Out of these banks, the Palal Central Bank Ltd. has gone into liquidation. The Travancore Forward Bank Ltd. has been amalgamated with the State Bank of Travancore. Most of the employees of the Thomcos Bank Ltd. have been taken over by the Bank of Madras.

4.18. As regards the Catholic Syrian Bank Ltd., the Commission came to the conclusion that the Bank had the paying capacity to implement the Labour Appellate Tribunal decision with retrospective effect from 1st April 1954.

4.19. As regards the South Indian Bank Ltd. the Travancore Cochin Banking Inquiry Commission has found that even on a conservative estimate the bank would not find any difficulty in implementing the Labour Appellate Tribunal decision with retrospective effect from 1st April 1954.

4.20. As regards the Ambat Bank Ltd., the Chaldean Syrian Bank Ltd. and the Cochin Commercial Bank Ltd., the Travancore Cochin Banking Inquiry Commission has stated that these banks would find it difficult to bear the additional burden of establishment expenses if the exemption in respect of area IV was withdrawn and the award was brought into force in that area with retrospective effect from the 1st April 1954. It stated that if, however, the change was effected from the 1st January 1956, the extra burden would be lower and all the banks, except the two banks working at a loss, would not find much difficulty in bearing it. As regards the two banks working at a loss, the Commission discussed the matter with their representatives and the Commission was informed that both the banks were agreeable to bear the additional burden from the 1st January 1956 as in one case the additional burden was comparatively small while in the other case the bank did not want any special treatment. As regards the Indian Insurance and Banking Corporation Ltd., it is mentioned in the report of the commission that the bank had voluntarily given effect to the award scales of pay etc. in the exempted area with effect from the 1st July 1954. The Commission recommended that in the case of the D class "Award banks" the exemption in respect of area IV in the Travancore Cochin State should be withdrawn and the banks should implement the Government modified decision as formulated in the Industrial Disputes (Banking Companies) Decision Act, 1955, at the offices in that area with effect from the 1st January 1956. Following the recommendations of this Commission, the Industrial Disputes (Banking Companies) Decision Amendment Act, 1957, was passed. As a result of this enactment, the South Indian Bank Ltd. Trichur and the Catholic Syrian Bank Ltd. Trichur occupied the same position as C-1 Class Banks and the provision giving exemption to branches of banks in Travancore Cochin in Area IV was taken away.

4.21. Out of the 68 banks which are effectively under reference on the basis of classification provided under the Sastry Award as modified 23 banks would be in Class A, 13 banks would be in Class B, 19 banks would be in class C, and 13 banks would be in Class D.

4.22 The following banks which were not before the Sastry Tribunal have come up before a National Tribunal for the first time:—

- (1) The American Express Co. Inc.,
- (2) The Andhra Bank Ltd.,

- (3) The State Bank of Patiala,
- (4) The State Bank of Saurashtra,
- (5) The Sangli Bank Ltd.,
- (6) The Ganesh Bank of Kurundwad Ltd.,
- (7) The Miraj State Bank Ltd.,
- (8) The Nadar Mercantile Bank Ltd.,
- (9) The Pangal Nayak Bank Ltd., and
- (10) The Union Bank of Bijapur & Sholapur Ltd.

Out of the 68 banks, 57 banks are scheduled banks and 11 banks are non-scheduled banks.

4.23. The All India Bank Employees' Association has claimed that the banks should be classified into 3 categories as under for the purpose of basic pay scales only:—

"A" Class Banks. (i) Banks whose working funds amount to Rs. 25 crores and more, (ii) all the Exchange Banks, and (iii) all the subsidiaries of the State Bank of India "B" Class Banks. Banks whose working funds are Rs. 7½ crores and above but below Rs. 25 crores.

"C" Class Banks.—Banks whose working funds are below Rs. 7 crores.

The Association has further claimed that should the working funds of a particular bank whether by amalgamation, merger or otherwise cross and remain higher than the upper limit set for its class continuously for a period of 52 weeks, it should automatically pass into the next higher class. In that event the employees should be entitled to all the benefit admissible to the employees of such higher class banks.

4.24. The All India Bank Employees Federation in its Charter of Demands had stated that it opposed the classification of banks as a matter of principle. It stated that if, however, it was felt that the same was not feasible, then banks should be divided in two classes viz., class A consisting of banks with working funds of Rs. 15 crores or more and Class B consisting of banks with working funds of less than Rs. 15 crores.

4.25. The All India State Bank of India Staff Federation and the State Bank of India Staff Union, Andhra Pradesh, Vijayawada and Madras Circle. Madras have submitted that the State Bank of India should stand in a separate class by itself.

4.26. The All India Bank of Baroda Employees' Federation has made a demand similar to that of the All India Bank Employees Association.

4.27. The Indian Overseas Bank Employees Union has asked for classification of banks into three classes; (i) A Class with working funds of Rs. 25 crores and more, (ii) B class with working funds between 7½ crores and more but below Rs. 25 crores and C class with working funds below Rs. 7½ crores. It, however, submits that the expression 'working fund' should include deposits, paid up capital, all reserves, unpaid dividends, bank borrowings, margins on letter of credits, guarantees, bills purchased and (monies due to) sundry creditors.

4.28. The Vedodra Rajya Bank Nokar Sangh has claimed that the classification of banks into four categories was not justified and that the principle of equal pay for equal work should be accepted in the case of the banking industry since the nature of work of their employees was substantially the same irrespective of the size of the banks and the place where they are situated. In the alternative it has claimed the classification of banks at the most into three classes.

4.29. The South Gujarat Bank of Baroda Employees Union has claimed that the banks should be classified into three categories: A Class banks with working funds of Rs. 25 crores and over B Class banks with working funds of Rs. 15 crores and over but below Rs. 25 crores and C Class banks with working funds below Rs. 15 crores.

4.30. The Central Bank of India Employees' Associations, Patna and Muzaffarpur and the Bihar Provincial Central Bank of India Employees Association have opposed the classification of banks as a matter of principle but they have stated

that if it was not feasible to do so, banks may be divided in two classes and not more. They have stated that those banks whose working funds amount to Rs. 15 crores or more should be placed in A class and those banks whose working funds amount to less than Rs. 15 crores may be placed in B class.

4.31. The Cochin Commercial Bank Employees Association, Cochin, has asked for classification of banks according to resources into three groups: (i) Group A-Banks whose working funds amount to Rs. 20 crores and more, (ii) Group B-Banks whose working funds amount to Rs. 5 crores and more but below Rs. 20 crores, and (iii) Group C Banks "whose working funds amount to Rs. 1 crore and more."

4.32. The Allahabad Bank Employees Union, Calcutta, the State Bank of Patiala, (All Cadres) Employees Association and the Employees Association of the Union Bank of Bijapur and Sholapur more or less took the same stand as that of the All India Bank Employees' Association.

4.33. The Indian Banks Association in its reply has stated that the "classification of banks based on working funds should be so rearranged as to make such classification consistent with their earning capacity so that the present classification in four categories may remain unchanged". The Indian Banks Association craved liberty to submit at the hearing the relevant figures for fixing the limits of working funds for classification of banks. At the hearing when it was called upon to make its submission in the matter, it claimed that Class A should comprise banks with working funds of Rs. 40 crores and above, that Class B should comprise banks with working funds of Rs. 12½ crores and above but less than Rs. 40 crores, that class C-1 should comprise banks with working funds of Rs. 7 crores and above but less than Rs. 12½ crores that Class C-2 should comprise banks with working funds of Rs. 2½ crores and above but less than Rs. 7 crores and that Class D should comprise banks with working funds below Rs. 2½ crores. The Indian Banks Association has resisted the demand that when the working funds of any bank crossed and remained higher than the upper limits set for its class continuously for a period of 52 weeks, it should automatically pass into the next higher class. The Association submitted that the principles laid down in para 64 of the Sastry Award and the period of two years provided therein for the changeover from one class to another whether higher or lower should remain unaffected having regard to the fact that two years was a fair period for a bank to adjust itself to the new classification.

4.34. The Bombay Exchange Banks Association in its written statement has submitted that the Exchange Banks were not affected by the classification standard demanded by the workmen. It pointed out that it would be unrealistic to classify Banks into 3 categories only.

4.35. On behalf of the eight Subsidiaries of the State Bank of India it is submitted that the demand of the workmen that the subsidiary banks should be classified as 'A' Class banks irrespective of working funds etc. was unreasonable and unjustified and had no basis either in fact or in equity. It is pleaded that the Subsidiary banks would fall within Class B banks under the Sastry Award and that there was no reason why these banks should be upgraded to Class A. It is further pleaded, that the subsidiary banks had imposed on them by statute obligations and duties which involved carrying on business in areas in which normally no commercial bank would consider transacting business on economic grounds, and therefore there was in fact a case for lessening the burden of a Class 'B' bank in the case of subsidiary banks. The Subsidiary banks, however, have submitted that their present classification in class "B" with the areawise pay structure and dearness allowance should continue.

4.36. On behalf of the State Bank of Patiala, it is submitted that even with the present pay structure it was uneconomic for the subsidiary banks to open branches and operate in small areas where no avenues of making profit were available, but this had to be done by reason of a statutory obligation and in the larger national interests, and if the pay structure etc. of a class 'A' bank was imposed on the State Bank of Patiala, or any other subsidiary bank, the subsidiary banks would not be in a position to carry out their obligations without being a burden on the public exchequer. It is submitted that no case existed either on facts or in equity for including the State Bank of Patiala in or treating it as Class "A" bank.

4.37. The Kerala Bankers Association has in its written Statement referred to the classification made by the Travancore Cochin Banking Inquiry Commission, namely of "C" Class banks with working funds amounting to rupees one crores

and more upto 7½ crores and of "D" class banks with working funds less than Rs. 1 crore and has submitted that emoluments should be suited to the "working possibility" of banks.

4.38. The Northern India Banks Association in its written Statement has submitted that in view of the financial position and paying capacity of different classes of banks, it was necessary that besides A, B and C Class banks there should also be D Class banks whose working funds were below Rs. 1 crore, as already provided in the Sastry Award. It has further submitted that in view of the rapidly increasing urban population as a result of industrialization through which we are passing, and in view of the development of small scale and medium sized industries as a part of our well-considered national policy, the need for small banks was bound to continue and hence there was a case for "D" Class banks. The Association has further submitted that only when the working fund of a bank, whether by amalgamation, merger or otherwise, crossed and remained higher than the upper limit set for its class continuously for a period of two years, as provided in the Sastry Award, it should pass into a higher class and in that case the employees should have the benefit of a higher minimum starting pay only along with dearness allowance and other amenities applicable to the higher class bank.

4.39. The National Bank of Lahore Ltd. in its written Statement has submitted that the classification of banks into different categories was on appropriate method and was not objected to by the bank. The Bank had no suggestion to offer with regard to the classification of 'A' Class and 'B' Class banks. So far as the classification of 'C' Class banks was concerned, the bank submitted that banks with the working funds of at least Rs. 15 crores should be classified as 'C' Class banks because under the newly introduced rules by the Reserve Bank of India, a major portion of the working capital of the banks would not be utilised by the banks themselves for the earning of profits, but would be so utilised by the Reserve Bank of India. The bank submitted that this necessarily would lead to diminution in the earning capacity of the banks in general and the 'C' Class banks in particular. The bank further submitted that the wages which were being paid and which would have to be paid would remain unaffected by the reduction of the capacity to earn profits and consequently Rs. 7½ crores working capital for a 'C' Class bank would not enable it to meet the expenses imposed upon it by the previous awards and those that might be imposed hereafter. The bank submitted further that it was not merely the increase in the volume of work that should entitle the workmen to a wage higher than that fixed by the award, but the continuity of working fund for a full year coupled with comparative increase in the profit should if at all be a matter for consideration. It has submitted that there should also be a provision that if for any reason the working capital of a bank suffers a reduction, then there should be a reduction in the wages of the employees also.

4.40. The Travancore-Cochin Bankers Association by its written Statement has submitted that it was incorrect to classify banks according to the deposits and working funds, that the capacity of a bank cannot be measured by taking either the deposits or the working funds, that profits may vary due to several reasons year after year and from bank to bank, that the previous Tribunals classified banks into four groups, i.e., 'A' Class banks, 'B' Class banks, 'C' Class banks and 'D' Class banks and the Association submitted that the present classification may be allowed to continue.

4.41. The Bhratha Lakshmi Bank Ltd. by its Written Statement has submitted that in respect of 'D' class banks the limit of Rs. one crore should be increased to Rs. 3 crores, as the limit of Rs. 1 crore suggested in 1952 was equal to and in any case not less than Rs. 2 crores to-day.

4.42. The Gadodia Bank Ltd., by its Written Statement submitted that there should be 4 categories of banks, A, B, C, and D classified on the basis of average working fund. The bank submitted that in the case of 'D' Class banks in view of their financial position and with a view to allow them opportunity to grow and become stronger and stronger, if may be provided that "those banks who have attained the upper limit step in into C Class provided that the working funds remain continuously at least for 2 years".

4.43. The Jaya Laxmi Bank Ltd. by its Written Statement has suggested that 'D' Class bank may be categorised with working funds of less than Rs. 3 crores and stated that if that was not done, small banks would be put to a lot of inconvenience to implement the new proposed wage structure.

4.44. The Vijaya Bank Ltd. by its Written Statement has stated that the classification suggested by the All India Bank Employees Association did not appear to be proper or reasonable, that it was suggested by the Association that the banks whose working funds were below Rs. 7½ crores should be classified as 'C' class, that the working funds of the bank as seen from its last balance sheet were not even Rs. 2 crores and that it was necessary to have at least one more category whose working funds were below Rs. 3 crores. The Bank referred to another aspect of the matter viz., whether banks should be classified with reference to the working funds or whether they should be classified with regard to average earning capacity and stated that it would be more proper to divide the several classes of banks with reference to the earning or paying capacity rather than on the basis of working funds.

4.45. The Miraj State Bank Ltd. by its Written Statement has submitted that the bank was an extremely small one from the point of view of its paid-up capital as well as from the point of view of its total working funds, that it is situated, along with all its branches, at places none of which had a population of more than 75,000, that three of its branches were situated in places having populations ranging from 10,000 to 20,000 and that in view of this circumstance and in view of the general financial position of the bank, the bank should be exempted from the provisions of the award of this Tribunal. Without prejudice, the bank has submitted that the bank could not even afford the scales of pay and dearness allowance, as well as the terms and conditions of employment prescribed by the Sastry Award, as modified by the report of the Bank Award Commission and therefore deserved to be placed in a class of its own, which may be called 'E' class.

4.46. As regards classification of banks, in the absence of better norms of classification, it seems to me that even though the classification of banks based on working funds is not an ideal method of classifying banks, it is, under the present circumstances, the best workable method of classifying banks having branches in more than one State which are before me. If, however, any bank, by reason of special circumstances peculiar to the bank, is unable to bear the burden of the class under which it falls under this award, it may be granted some relief or some special provision may be made for it. The existence of such exceptional banks cannot come in the way of the establishment of a rule relating to classification of banks in accordance with their working funds.

4.47. In support of the claim made at the hearing on behalf of the Indian Banks Association for classification of banks so that Class A would comprise banks with working funds of Rs. 40 crores and above, Class B would comprise banks with working funds of Rs. 12½ crores and above but less than Rs. 40 crores, Class C-1 would comprise banks with working funds of Rs. 7 crores and above but less than Rs. 12½ crores, Class C-2 would comprise banks with working funds of Rs. 2½ crores and above but less than Rs. 7 crores and Class D would comprise banks with working funds below Rs. 2½ crores, Shri Phadke, the learned advocate for the Indian Banks Association, filed a statement showing the yield according to total working funds of scheduled banks after paying interest on deposits etc., and establishment expenses for the period 1951 to 1959. It showed that the percentage ratio of profits after paying establishment expenses to total working funds had gone down from 2.02 per cent for the year 1951 to 1.40 per cent for the year 1959. He contended that over the next three years the yield on working funds could be expected to go further down to 1.2 per cent, and submitted that for the restoration of the 1951 level of yield larger working funds would be necessary. The above contention of the Indian Banks Association was very strongly opposed on behalf of the employees. It was pointed out that as a result of the classification suggested by the Indian Banks Association, it would bring twelve more banks in Class D which class the employees wanted to abolish that thereunder eleven C Class banks would fall in C-2 Class, six B Class banks would fall in C-1 Class and four A class banks, namely, the Canara Bank Ltd., the Indian Overseas Bank Ltd., the Devkaran Nanjee Banking Corporation Ltd. and the Union Bank of India Ltd. would fall in B class. It was urged that the net result of such classification would be a disturbance at all levels, inflicting great hardship on the workmen. It was further urged that no cogent reasons were advanced for this pulling down process.

4.48. In the banking industry, the paid-up capital and reserves constitute a small part of the total working funds. Dividends have to be paid only on the paid-up capital. It is neither proper nor just to classify banks on the basis suggested by the Indian Banks Association. It would mean a disturbance at all levels, adversely affecting the emoluments of the employees. No cogent or convincing

reasons have been adduced and no evidence has been led which would justify the suggested classification. I see no reason to accede to the demand made on behalf of the Indian Banks Association in this connection.

4.49. The limit placed by the Sastry Tribunal in connection with A class banks, viz., banks whose working funds amount to 25 crores and more, appears to me to be fair and reasonable and there is no reason to disturb the same.

4.50. The next question that will require to be considered is whether the State Bank of India should be regarded as a bank falling within this class or should be excepted from this class and should have scales of pay and other services conditions of its own.

4.51. It was contended that by its constitution, by its structure, by the way it was managed and the purposes for which it was constituted the State Bank of India differed from all other A Class banks, that though the State Bank was at present classified with other A Class banks, it was unlike other A Class banks, specially constituted under a separate enactment. It was next contended that the State Bank was the name under which the Reserve Bank functioned for certain purposes. It was submitted that most of the shares of the State Bank were held by the Reserve Bank of India and that when carrying on ordinary business the Reserve Bank called itself the State Bank of India and carried on commercial banking business. It was argued further that the relationship between the State Bank of India and the Reserve Bank of India was not exclusively or merely that of a company and its shareholder or that of a mere agent and its principal. The State Bank was in a class by itself created by the statute, a position which could not be claimed in respect of the biggest of the A Class banks. It was submitted that the State Bank of India should be placed in a class higher than that of A Class banks.

4.52. This demand has been resisted by the State Bank of India. It was urged that the State Bank, which is the creature of a statute, has to carry on banking business on sound business principles and has to enlarge itself in the rural areas irrespective of the fact whether its branches in such areas would fetch profit or not. Shri Sachin Chaudhary who appeared for the State Bank of India pointed out that two somewhat contradictory obligations had been imposed on the State Bank of India viz. it was under an obligation to run the institution on sound banking principles and it was under an obligation to extend banking facilities to rural areas even though it may result in a loss. It was also pointed out that the State Bank of India was a bank in the public sector working for the benefit of the public and that its profits were turned over to the Government. He stated that it was incorrect to say that because the Reserve Bank held a major portion of the shares of the State Bank of India, the Reserve Bank became the owner of the State Bank of India.

4.53. While disposing of the application made on behalf of the State Bank of India Staff Union, Andhra Pradesh, Vijayawada (Miscellaneous Application No. 291 of 1960) for bringing on record the Reserve Bank of India as a party to Reference No. 1 of 1960, in relation to the dispute between the State Bank of India and its workmen, I have, by my judgment and order, dated 18th November 1960, held that the Reserve Bank of India and the State Bank of India were not the same and that they were distinct and separate entities constituted under different enactments. The said order appears in Appendix E to this award. The State Bank of India and the Reserve Bank of India have distinct functions to perform.

4.54. Having considered all aspects of the matter, I am of the view that though the State Bank of India has special and peculiar features of its own, there is no case made out for treating this bank on a footing higher than the one occupied by A Class banks. On the one hand, it has the advantage of having very extensive working funds whilst on the other it has to bear the burden of the Government policy relating to the expansion of banking and in particular in rural areas. In fact the Integration and Development Fund has been constituted to meet some of the losses incurred by the State Bank of India in opening some of its branches in accordance with its expansion programme. In my view, the interests of the workmen are sufficiently safeguarded by putting the bank in Class A. Accordingly I reject the demand for placing the State Bank of India in a separate class by itself.

4.55. Another claim made on behalf of the workmen is that the subsidiaries of the State Bank of India should also be placed in Class A even though by reason of their working funds they are not liable to be placed in the said class.

It was submitted that there was common ownership, direction and management of the Subsidiaries of the State Bank of India for a public purpose and that this should be the guiding factor. It was further submitted that the Government policy was to serve the rural and semi-rural areas through the State Bank of India and its Subsidiaries and that the terms and conditions of service of the employees of the State Bank of India and its subsidiaries should be the same.

4.56. The demand of the employees has been resisted by the State Bank Subsidiaries. It was submitted that the demand was unreasonable and unjustified and had no basis either in fact or in equity. It was further submitted that the subsidiary banks had imposed on them by statute obligations and duties which involved carrying on business in areas in which normally no commercial bank would consider transacting business on economic grounds and that there was in fact a case for lessening the burden which they would have to bear as 'B' Class banks.

4.57. The subsidiaries of the State Bank of India are the following:—

- (1) The State Bank of Bikaner,
- (2) The State Bank of Hyderabad,
- (3) The State Bank of Indore,
- (4) The State Bank of Jaipur,
- (5) The State Bank of Mysore,
- (6) The State Bank of Travancore,
- (7) The State Bank of Patiala, and
- (8) The State Bank of Saurashtra.

These Subsidiaries are now governed by the State Bank of India (Subsidiary Banks) Act, 1959. Six of these banks were constituted under the said Act. The State Bank of Hyderabad and the State Bank of Saurashtra have been constituted under different enactments. By section 9 of the said Act it has been provided that on the constitution of the aforesaid new banks, under the said Act all shares in the capital of the corresponding banks, where such corresponding banks have a share capital, shall stand transferred to, and shall vest in, the State Bank, free of all trusts, liabilities and encumbrances. There is a provision that no increase or reduction in the issued capital of a new bank shall be made in such a manner that the State Bank of India holds at any time less than 55 per cent of the issued capital of that bank. By section 24 the State Bank is empowered from time to time to give directions and instructions to a subsidiary bank in regard to any of its affairs and business, and such subsidiary bank would be bound to comply with the directions and instructions so given. Subject to any such directions and instructions, the general superintendence and conduct of the affairs and business of a subsidiary bank vests in a Board of Directors which, except in the case of the first constitution of the Board, is to consist of the Chairman for the time being of the State Bank, *ex officio*; an officer of the Reserve Bank, to be nominated by that bank; not more than five directors to be nominated by the State Bank of whom not more than three shall be officers of that bank; two directors to be elected in the prescribed manner by the shareholders, other than the State Bank subject to certain limitations and a director to be nominated by the Central Government in consultation with the State Bank.

4.58. By section 36 it is provided that a subsidiary bank shall, if so required by the State Bank, act as an agent of the State Bank at any place in India for (a) paying, receiving, collecting and remitting money, bullion and securities on behalf of any Government in India; and (b) undertaking and transacting any other business which the Reserve Bank may, from time to time, entrust to the State Bank. By Section 37 it is provided that a subsidiary bank may carry on and transact the business of banking as defined in clause (b) of sub-section (1) of section 5 of the Banking Companies Act, 1949, and may engage in such one or more of the other forms of business, as are specified in sub-section (1) of section 6 of that Act. By sub-section (2) of section 37, it is provided that the Central Government may, after consultation with the Reserve Bank and the State Bank by order in writing (a) authorise a subsidiary bank to do such other forms of business as the Central Government may consider necessary or expedient; (b) direct that any form of business as was mentioned in the order shall be carried on, subject to such restrictions, conditions and safeguards as may be specified therein; or (c) prohibit a subsidiary bank from carrying on or transacting any form of business, which, but for that clause, it was lawful for the subsidiary bank to engage in.

4.59. By section 40 it is provided that after making provision for bad and doubtful debts, depreciation in assets, equalisation of dividends, contribution to staff and superannuation funds and for all other matters for which provision is necessary by or under the Act or which are usually provided for by banking companies, a subsidiary bank may, out of its net profits, declare a dividend.

4.60. By section 48 it is provided that a subsidiary bank may accept any subsidies offered by the State Bank to meet:—

- (a) the cost of the whole or any part of any specific programme of development undertaken by that subsidiary bank with the approval of the State Bank; and
- (b) such losses or expenditure as may be approved by the State Bank, with the consent of the Reserve Bank.

These provisions indicate that a Subsidiary bank is a separate entity which exists separately from the State Bank of India. The Subsidiary banks have separate functions to perform. Under the directions of the State Bank of India, the subsidiary banks have opened between 1st October 1959 and 30th June 1960, 36 branches to cater to the needs of the rural and semi-urban areas in the former Part B States by providing banking and credit facilities to those areas. Merely because the State Bank of India has a controlling voice in the affairs of the Subsidiaries, I would not be justified in placing any Subsidiary bank in a class above the one in which it would ordinarily be placed, so as to impose upon such bank a larger burden than that which it would otherwise have to bear. I cannot accede to the demand of the workmen in this connection.

4.61. As regards B Class banks, the basis of classification as adopted by the Sastry Tribunal, namely, banks having working funds amounting to Rs. 7½ crores and more but below Rs. 25 crores, is fair and reasonable and does not require to be altered.

4.62. I shall now deal with banks falling in the present Class C, namely, banks whose working funds amount to Rs. 1 crore and more but are below Rs. 7½ crores. As a result of the report of the Bank Award Commission and the enactment of the Industrial Disputes (Banking Companies) Decision Act (41 of 1955) and the Industrial Disputes (Banking Companies) Decision (Amendment) Act (40 of 1957), this class, for certain purposes has been sub-divided into two classes—one, the class known as Class C-1 and the other, the class known as Class C-2. Class C-1 consists of (1) the Bank of Behar Ltd., (2) the Bank of Indore Ltd., (now the State Bank of Indore), (3) the Bank of Jaipur Ltd., (now the State Bank of Jaipur), (4) the Bank of Maharashtra Ltd., (5) the Canara Banking Corporation Ltd., (6) the Canara Industrial and Banking Syndicate Ltd., (7) the Hind Bank Ltd., (8) the Travancore Bank Ltd., (now the State Bank of Travancore); (9) the South Indian Bank Ltd. and (10) the Catholic Syrian Bank Ltd.. The aforesaid banks were considered to be in a position to bear the burden of the dearness allowance as awarded by the decision of the Labour Appellate Tribunal. This Class C-1 would also comprise banks which, since the date of the Sastry Award, have been upgraded from Class D to Class C by reason of the increase in their working funds so as to amount to Rs. 1 crore and more for the period provided by the Sastry Award. Class C-2 comprises banks which fell within Class C under the Sastry Award other than the aforesaid banks falling within Class C-1. The Banks falling within Class C-2 were not considered to be in a position to bear the burden of dearness allowance provided by the decision of the Labour Appellate Tribunal. Out of the banks which appear before me, only the following six banks fall within Class C-2, namely (1) the Bank of Rajasthan Ltd., (2) the Hindustan Commercial Bank Ltd., (3) the National Bank of Lahore Ltd., (4) the Punjab and Sind Bank Ltd., (5) the United Industrial Bank Ltd., and (6) the Pandyan Bank Ltd.

4.63. Though all the banks comprised in Class C-1 and Class C-2 fall within Class C, the total remuneration (excluding house rent) payable to workmen employed by banks falling within Class C-1 varies to a very considerable extent from that payable to workmen employed by banks falling within Class C-2. At the all-India working class consumer price index number 123 in the Series 1949=100, the remuneration (i.e., basic pay and dearness allowance) which is payable to a member of the clerical staff in Area I by a C-1 Class bank during the 1st year of service is Rs. 136.85, the 15th year of service is Rs. 241.90 and the 25th year of service is Rs. 375.25, whilst that payable by a C-2 Class bank during the 1st year of service is Rs. 116.50, the 15th year of service is Rs. 214.93 and the 25th year of service is Rs. 331. In Area II, the amounts of remuneration payable

under similar circumstances to members of the clerical staff in the 1st, 15th and 25th year of service payable by a C-1 Class bank, are Rs. 124.05, Rs. 209.75 and Rs. 333.90 respectively whilst those payable by a C-2 Class bank are Rs. 103.70, Rs. 193.13 and Rs. 299.40 respectively. In Area III, the amounts of remuneration payable under similar circumstances to members of the clerical staff in the 1st, 15th and 25th year of service by a C-1 Class bank are Rs. 114.25, Rs. 190.85 and Rs. 307.05 respectively whilst those payable by a C-2 Class bank are Rs. 93.90, Rs. 180.25 and Rs. 263.25 respectively.

4.64. As regards the members of the subordinate staff, in Area I, the amounts of remuneration payable at the same index number during 1st, 15th and 25th year of service by a C-1 Class bank are Rs. 80.87, Rs. 104.87 and Rs. 114.87 respectively whilst those payable by a C-2 Class bank are Rs. 52.75, Rs. 76.75 and Rs. 86.75 respectively. In Area II, the amounts of remuneration payable under similar circumstances during the 1st, 15th and 25th year of service payable by a C-1 Class bank are Rs. 75.75, Rs. 100.75, and Rs. 110.75 respectively whilst those payable by a C-2 Class bank are Rs. 47, Rs. 72 and Rs. 82 respectively. In Area III, the amounts of remuneration payable under similar circumstances during the 1st, 15th and 25th year of service, by a C-1 Class bank are Rs. 70.62, Rs. 96.62 and Rs. 106.62 respectively whilst those payable by a C-2 Class bank are Rs. 42.50, Rs. 68.50 and Rs. 78.50 respectively.

4.65. There is thus a very wide divergence between the total amounts of basic pay and dearness allowance payable to employees of banks falling within C Class depending on whether a bank is placed in C-1 group or C-2 group. When we come however to Area IV, the remuneration payable by C-1 Class bank and by a C-2 Class bank to workmen in the clerical grade is the same. So is the case with workers in the subordinate grade.

4.66. The position appears to be very much more anomalous when one considers the case of a bank which was in D Class at the time of the Labour Appellate Tribunal's decision and subsequently was upgraded by reason of its working funds touching or crossing the limit of Rs. 1 crore for the prescribed period. It then gets upgraded into C Class and has then to pay remuneration payable by a C-1 Class bank.

Thus, a bank whose working funds at the time of the Labour Appellate Tribunal's decision were less than the working funds of a C-2 Class bank has to pay more than a C-2 Class bank, even though after upgradation its working funds may be less than those of a C-2 Class Bank. The reason for the creation of this new C-2 Class was the inability of the banks falling within C-2 Class to meet the burden of the dearness allowance imposed by the decision of the Labour Appellate Tribunal. I will proceed to examine the case of the six banks which at present fall within C-2 Class, to see whether there is any necessity now to provide for their workmen a lower remuneration than the remuneration payable by other banks falling within C Class.

4.67. *The Bank of Rajasthan Ltd.*—This bank was established in the year 1943 with its registered office at Udaipur. As shown in the Statistical Tables, in the years 1959 and 1960 it had a paid-up capital of Rs. 9,24,000, its reserves were Rs. 5,45,000 in the year 1959 which rose to Rs. 8,01,000 in the year 1960, and its deposits were Rs. 4,90,61,000 in the year 1959 and Rs. 5,32,92,000 in the year 1960. Its total working funds as on 31st December 1961, as given by the bank, amounted to Rs. 6,07,99,000. This bank declared dividends at the rates following:—In the year 1950 at 4½%, in the year 1951 at 4½%, in the year 1952 at 3½%, in the year 1953 at 3½%, in the year 1954 at 3½%, in the year 1955 at 3½%, in the year 1956 at 4½%, in the year 1957 at 6%, in the year 1958 at 6%, in the year 1959 at 8 per cent taxable and in the year 1960 at 10 per cent taxable. This bank had 31 branches including the head office, but excluding the purely administrative offices in the year 1959. It had 35 branches including the head office but excluding the purely administrative offices in the year 1960.

4.68. In its written statement this bank has stated that on 31-12-1959 twenty three of its branches were in towns with a population of less than 30,000 and that it caters to the needs of small businessmen and rural population. It has pleaded that it has no capacity to pay wages at scales higher than those which it is at present paying and that it will not be able to maintain its present rate of dividend if it is made to pay increased rates of wages. It has stated that if it is asked to pay emoluments to its workmen on the basis of the bank being regarded as a C-1 Class bank, it would have to incur an additional expenditure of Rs. 86,630 which

would considerably reduce its balance of profits. In the year ended 31st December 1960 it has shown that it made a profit of Rs. 3,36,202 and that if it had to pay C-1 Class wages for the year 1960 the profits would have been reduced to Rs. 2,49,572.

4.69. This bank has 23 branches in Area IV and 6 branches in Area III as on 31st December 1960. In Area III the number of members of its clerical staff was 64 and the number of members of its subordinate staff was 36. In Area IV number of members of its clerical staff was 99 and that of subordinate staff was 83. The basic wages and dearness allowance payable by C-1 and C-2 Class banks in Area IV are the same.

There is no reason why this bank should not be treated on the same footing as other banks falling within Class C. In view of the present financial position of the bank and the progress made by it in the past few years, it should not experience any difficulty in meeting the increased burden imposed upon it as a result of the abolition of C-2 Class.

4.70. *The Hindusthan Merchantile Bank Ltd.*—This bank was established in the year 1944. As shown in the Statistical Tables its paid-up capital was Rs. 50,00,000 in the years 1959 and 1960, its reserves in the year 1959 were Rs. 2,30,000 and in the year 1960 were Rs. 2,50,000, and its deposits in the year 1959 totalled Rs. 2,07,37,000 and in the year 1960 totalled Rs. 1,86,04,000. The head office of the bank is at Calcutta. It has branches at Bombay, Delhi, Kanpur, Bikaner and Chandernagore. Its total working funds were Rs. 2,78,13,000 in the year 1955, Rs. 2,29,68,000 in the year 1956, Rs. 2,77,29,000 in the year 1957, Rs. 2,87,51,000 in the year 1958 and Rs. 2,62,12,000 in the year 1959 as shown in the bank's Written Statement. For the year 1960 its total working funds were Rs. 2,15,80,000 and in the year 1961 the same amounted to Rs. 2,10,22,000 according to a statement furnished by the bank. In 1947 the bank had 17 branches but closed one branch after another as according to the bank it was found uneconomical to continue the branches. In 1960 the bank had only 7 branches. The gross earnings of the bank have declined from Rs. 13,44,000 in 1955 to Rs. 11,05,000 in 1959. The bank has not paid any dividend since its inception. It has submitted by its written statement that the bank was not in a position to bear any extra financial burden but on the contrary needed some relief. From 1948 to 1960 this bank has made profits as follows:—

Year	Profits Rs.
1948	61,000
1949	1,14,000
1950	32,000
1951	61,000
1952	1,49,000
1953	81,000
1954	31,000
1955	71,000
1956	4,000
1957	3,000
1958	1,38,000
1959	65,000
1960	68,000

as shown by a note filed by the Indian Banks Association. Allegations of various malpractices have been made against this bank which have been denied by the Bank. There is no evidence led in support of these allegations. No evidence has been led on behalf of the bank to show any special circumstances peculiar to this bank entitling it to any special treatment. This bank is in the private sector. It has not declared any dividend since its inception and has not shown such profits as are ordinarily made by banks situated in similar circumstances. In the absence of any satisfactory evidence led to explain the paucity of its profits, there is no reason why this bank should not pay to its employees the same amount of wages which other banks in the same class have to pay to their employees.

4.71. *The National Bank of Lahore Limited.*—The Northern India Banks Association has filed a reply to the statement of claim made by the All India Banks Employees Association, *inter alia* on behalf of the National Bank of Lahore Ltd. The bank itself has filed a separate reply to the main demands of the workmen. This bank is a bank in C-2 Class since April 1954. This Bank was incorporated in the year 1942. As shown in the Statistical Tables its paid-up capital for the years 1959 and 1960 was Rs. 15,00,000. its reserves for the year 1959 were Rs. 4,15,000 and for the year 1960 were Rs. 3,50,000 and its deposits for the year 1959 were Rs. 4,09,47,000 and for the year 1960 were Rs. 4,20,26,000. Its total working funds as given by the bank for the years 1960 and 1961 amounted to Rs. 4,14,02,000 and Rs. 4,11,03,000 respectively. Its net profits for the year 1954 amounted to Rs. Rs. 1,34,507 for the year 1957 amounted to Rs. 1,63,367 for the year 1958 amounted to Rs. 3,37,242 for the year 1959 amounted to Rs. 4,56,974 and for the year 1960 amounted to Rs. 6,81,319. In the year 1961, it took over the assets and liabilities of the Prabhat Bank Ltd. under a scheme of arrangement sanctioned by the Government, with the result that it has now two more branches. The bank has in all 24 branches including the head offices but excluding the purely administrative offices. 14 of its branches are in Area I, 6 of its branches are in Area II, 2 of its branches are in Area III and 2 of its branches are in Area IV. This bank was functioning before partition, in the area now known as West Pakistan. In its reply, it has pleaded that it could not pay any dividends to the shareholders since after the partition and that the same was due mainly to the wage bill which it had to meet and the provision it had to make for the losses which had already been suffered as a result of partition. The bank has stated that it had to make a provision for about Rs. 9,00,000 for the losses suffered in Pakistan. The bank has pleaded that special consideration should be given to the bank and that no increase in wages should be ordered. This written statement was filed on 8th July 1960. The balance-sheet filed for the year 1960 shows that it had tide over the difficulties arising as a result of the Partition and has been able to declare four per cent dividend out of the net profits made by it during the year. A sum of Rs. 60,000 out of the net profits has been utilised for declaring this dividend. During the year, it has utilised its profits for the purpose of transferring Rs. 3,25,000 to the statutory reserves. The bank now is making substantial profits. The Northern India Banks Association on behalf of its member banks including this bank, has made the following proposal:—

"We consider the existing minimum and maximum of the scales as fair and reasonable but in case this Hon'ble Tribunal finds it necessary to change the scales of pay we propose the following scales of pay applicable to clerical and subordinate staff in 'C' class banks.

SCALES OF WAGES

(Clerks)

Class 'C' Banks.

Area I Rs. 70—5—105—6—147—7—196—8—252—E.B.—9—315.
 Area II Rs. 65—5—100—6—142—7—191—8—247—E.B.—9—310.
 Area III Rs. 60—5—95—6—137—7—186—8—242—E.B.—9—305.
 Area IV Rs. 55—5—90—6—132—7—181—8—237—E.B.—9—300.

(Peons)

Class 'C' Banks.

Area I to

Area IV. Rs. 32—2—102."

4.72. The above scales are better than the scales prescribed by the Labour Appellate Tribunal for clerical staff in "C" Class banks. They are much better than the scales of pay prescribed by the Labour Appellate Tribunal for the members of the subordinate staff employed by C class banks except for the first few years of service in Area I.

4.73. Having considered all aspects of the matter, in my view, this bank will be able to bear the burden of the increased establishment charges under my award as a Class bank.

4.74. *The Punjab and Sind Bank Limited, Amritsar.*—This bank was incorporated in the year 1908. As shown in the Statistical Tables the paid-up capital of this bank in the year 1959 was Rs. 3,87,000 and in the year 1960 was Rs. 3,88,000, its reserves were Rs. 12,10,000 in the year 1959 and Rs. 10,75,000 in the year 1960, and its deposits were Rs. 1,88,11,000 in the year 1959 and Rs. 2,13,17,000 in the year 1960. Its working funds for the year 1961 as shown by the bank amounted to Rs. 2,34,92,800. This bank had, in the year 1960, 13 branches including the head office but excluding purely administrative offices. It had three branches in Area I, six branches in Area II and three branches in Area IV. During the year 1959, this bank made a net profit of Rs. 26,919. During the year 1960, it made a net profit of Rs. 12,286. In the balance-sheet for the year 1960 it is stated that lower profit was partly due to the increase in establishment expenses as a result of re-organisation to improve efficiency of work at branches and partly due to higher liquidity which was maintained in the second half year due to uncertain conditions. It is further stated in the balance sheet that the deposits had increased by about Rs. 25 lacs and loans and advances as on 31st December stood at a higher figure by about rupees sixteen lacs. This bank paid dividends at the rate of five per cent during the years 1954 to 1957. It has declared no dividends for the years 1958, 1959 and 1960. This bank is a member of the Northern India Banks Association and the offer made on its behalf is similar to the offer made on behalf of the National Bank of Lahore Ltd. In my view, this bank would be able to bear the burden of the scales of pay and the other provisions contained in my award as a 'C' Class bank under my award.

4.75. *The United Industrial Bank Ltd.*—Its paid-up capital between 1950 to 1960 has all throughout been Rs. 27,66,000. Its reserves were Rs. 4,60,000 in the year 1950, they went down to Rs. 3,50,000 in the year 1951, they went up again to Rs. 5,30,000 in the year 1954, they dwindled to Rs. 3,66,000 in the year 1955, rose to Rs. 4,85,000 in the year 1956, they went down to Rs. 3,72,000 in the year 1959 and went up to Rs. 3,74,000 in the year 1960. Its total deposits were Rs. 1,33,76,000 in the year 1950, Rs. 1,16,82,000 in the year 1951, Rs. 1,06,94,000 in the year 1952, Rs. 1,18,90,000 in the year 1953, Rs. 1,17,16,000 in the year 1954, Rs. 1,04,07,000 in the year 1955, Rs. 1,18,28,000 in the year 1956, Rs. 1,46,28,000 in the year 1957, Rs. 1,35,18,000 in the year 1958, Rs. 1,42,95,000 in the year 1959 and Rs. 1,31,20,000 in the year 1960. Its working funds for the year 1961 as shown by the bank amounted to Rs. 1,90,22,080. In accordance with its published balance sheets, in round figures, this bank made a loss of Rs. 14,000 in the year 1952, made a profit of Rs. 47,800 in the year 1953, made a loss of Rs. 32,000 in the year 1954, made a loss of Rs. 22,000 in the year 1955, made a profit of Rs. 47,100 in the year 1956, made a profit of Rs. 7,000 in the year 1957, made a loss of Rs. 44,800 in the year 1958, made a loss of Rs. 92,900 in the year 1959 and made a small profit of Rs. 1,878 in the year 1960. It is stated in the balance sheet of the bank for the year 1960 that no provision was required to be made for taxation that year as tax aggregating to Rs. 56,551 already deducted at source from the yield on the bank's investments was due to be refunded to the bank. This bank has 7 branches in all including the head office. Five of its branches, including the head office, are within the municipal area of Calcutta. One branch is at Patna and another branch is at Naraingunge in East Pakistan. It has filed a written statement claiming that having regard to its own peculiar financial position, the losses it has incurred or the small profits that have been made in some years, the gradual decrease in the ratio of profits to working funds since 1954 and particularly the inadequacy of the bank's working funds during the recent years, it may be treated as a small unit on a special footing. It has submitted that the losses incurred by the bank in recent years were partly due to the mounting wage bills of the workmen staff and partly due to other circumstances over which the bank had no control. What those circumstances beyond the bank's control are has not been specified. The bank in the year 1959 employed in all 129 workmen, 71 of whom belonged to the clerical staff and 58 of whom belonged to the subordinate staff. A statement has been filed on behalf of the bank showing that as on 31-12-1959 out of a total 37,500 shares of the bank 24,000 shares were held in the aggregate by Shri J. N. Roy and Shri P. N. Roy and their respective sons. The head office of the bank is housed in part of the premises belonging to the Roy family. It is stated that Shri J. N. Roy and Shri P. N. Roy at their own cost installed counters in the premises of the bank at a cost exceeding about Rs. 30,000 and also installed a strong room and a record room at an expense of about Rs. 40,000.

4.76. This bank operates principally within the municipal limits of Calcutta. It is a bank in the private sector. For over 10 years the bank has continued its existence without declaring any dividend. No evidence has been led by the bank to show any special reasons why it is making losses or only small profits whereas other banks are making considerable profits. No evidence has been led of any special circumstances peculiar to the bank which would require this bank to be treated on any special footing so that it should pay lesser amounts by way of wages to its employees than other banks similarly situated. In my view, it should pay wages appropriate to its class under this award.

4.77. *The Pandyan Bank Limited.*—This bank was established in the year 1946. As shown in the Statistical Tables its paid-up capital for the years 1959 and 1960 was Rs. 15,00,000, its reserves for the year 1959 were Rs. 11,45,000 and for the year 1960 were Rs. 13,95,000 and its deposits for the year 1959 were Rs. 5,51,77,000 and for the year 1960 Rs. 4,34,01,000. Its working funds for the year 1961 as shown by the bank were Rs. 4,29,31,000. It had 82 branches including the head office but excluding the purely administrative offices during the year 1959 and 83 branches excluding the purely administrative offices during the year 1960. It is one of the well-managed banks in the country. In the year 1958, it made a profit of Rs. 4,18,925, which rose to Rs. 7,14,840 in the year 1959 and to Rs. 7,50,005 in the year 1960. During the year 1958 it distributed free of tax, dividend at the rate of ten per cent on the paid-up capital of the company. In the year 1959, it distributed a gross dividend of 14.29 per cent on the paid-up capital of the company. During the year 1960, it distributed a gross dividend of ten per cent on the paid-up capital of the company.

4.78. This bank had entered into an agreement regarding wages with its workmen before the Bank Award Commission.

4.79. This bank will be able to bear the burden of a 'C' Class Bank under my award.

4.80. Having considered the position of all banks which are at present in C-2 Class, I do not see any necessity of having any separate provision made for them. They will pay the remuneration payable by C Class banks under this Award.

4.81. I will next consider the case of D Class banks. It is strongly urged before me that there is no necessity for maintaining this class. The Labour Appellate Tribunal had provided in connection with this class of banks that the scales of pay and dearness allowance given under the Sastry Award would govern them, subject to the condition that they would apply for a period of not more than five years from 1st April 1954 after which period the scales of pay and dearness allowance of C Class banks would become applicable to them. The Bank Award Commission, however, recommended that as regards the banks in D Class other than those in the then Travancore-Cochin State, their position as at the end of March 1959 should be examined afresh in order to arrive at a decision about their promotion or otherwise to C Class. It has been contended before me that the abolition of Class D would quicken the pace of amalgamation of small banks with others and that such amalgamation was in the national interest. It was contended that the policy of amalgamation was backed by the Reserve Bank of India and that the amendment of the Banking Companies Act empowered the Reserve Bank to take such steps for amalgamation. By the Banking Companies (Second Amendment) Act, 1960 (37 of 1960), Parliament has amended section 45 of the Banking Companies Act. By this amendment it has been provided that where it appears to the Reserve Bank that there was good reason so to do, it may apply to the Central Government for an order of moratorium in respect of banking companies. It is further provided that during the period of moratorium if the Reserve Bank was satisfied that in the general interest or in the interest of the depositors or in order to secure proper management of the banking company or in the interest of the banking system of the country as a whole it was necessary so to do, the Reserve Bank may prepare a scheme for the reconstruction of the banking company or for the amalgamation of the banking company with any other banking institution. Reliance was also placed upon the speech of the Governor of the Reserve Bank of India in his inaugural address delivered at the Second Indian Conference on Research in National Income, on 31st August 1960. In the course of his address Shri Iyengar has observed as follows:—

"It is worth recalling xx xx xx that in 1947 we inherited a banking system that was in several respects weak and disorganised as a result of haphazard and mushroom growth during the war.

Between 1941 and 1945 the number of banks had gone up from 473 to 737. Several of these institutions showed highly undesirable characteristics, such as an inadequate capital structure, too large a branch expansion relative to resources, unsound methods of operation and unduly favourable terms of managerial appointments. * * * As a result of the consolidation * * * the number of banking institutions which had stood at 737 at the end of 1946 was reduced gradually to 363 institutions at the end of 1959. A number of these, unfortunately are still 'problem' banks.

* * * * *

Another problem which demands attention is that of the 'problem' banks referred to earlier. The question has to be re-examined as to whether these institutions have a useful role to play in the economy and if so what structural and other improvements have to be devised in order to make them sound and viable units. The question also arises in this context as to whether some powers of compulsion are required for effecting a merger in appropriate cases. * * * On all grounds it is desirable that we start afresh with a banking structure which is sound and sufficiently broad-based to take on the increasing responsibilities that will fall on it during the Third Five Year Plan period. From this point of view clearly one could not contemplate with equanimity an indefinite or prolonged extension of tutelage for substandard banks in various stages of difficulty."

Reliance was also placed on another speech delivered by the Governor of the Reserve Bank as President of the Indian Institute of Bankers, at the annual general meeting on August 10, 1961, where he has observed as under:—

"The view is often expressed that small banks are *per se* more worthy of encouragement than branches of banks on the ground that the management of small banks, because of their direct and intimate touch with borrowers and local economic conditions, are in a better position to serve the banking needs of the community. On this ground it has been suggested that the large number of small banks in our country should, if there is a prospect of their being reasonably well-run, continue and not be subjected to a process of amalgamation.

It is not really necessary, for the purpose of reaching a practical decision on our immediate problem, to discuss the relative merits of branch banking versus small unit banking. * * * Whatever the theoretical justification may be in favour of a small unit bank as opposed to branch banking, the test in our country is whether unit banks have in fact done well or whether, on the contrary, they have failed to live up to their expectations. * * * I would merely say that, by and large, experience has shown that small unit banks have not been particularly successful in our country, although a few of them have done well and have, in fact, qualified for a licence."

4.82. It was also urged that the Travancore-Cochin Banking Inquiry Commission, which was concerned with very small and poor banks, had strongly recommended such amalgamation and that the Bank Award Commission had also looked upon this process with great favour. It was submitted that the Five Year Plans viewed with favour general amalgamation of industrial units. It was pointed out by the employees that under the Divatia Award there were only two classes of banks, that under the Sen Award there were three classes of banks and that only the Sastry Award created four classes. On the other hand, it was argued on behalf of the banks that no proper material had been placed before this Tribunal to show that the time had come for the abolition of D Class. It was further urged that if the scales of C Class banks were made applicable to D class banks, the heavy burden on D Class banks would go up and some of the D Class banks may be wiped out.

4.83. Before deciding upon the question whether Class D should be abolished or should be maintained it would be desirable to examine the cases of banks which are at present having working funds of less than one crore of rupees, for the purpose of considering whether their cases warrant the retention of a separate class.

4.84. At the time when the references were made there were 18 banks with working funds below rupees one crore. 13 out of these 18 banks were before the Sastry Tribunal and were classified as "D" class banks. Out of the 18 banks, the Thomcos Bank Limited and The Trivandrum Permanent Bank Limited have transferred their assets to other banks. The Bank of Nagpur Limited and The Rayalseema Bank Limited have been amalgamated with other banks and the Reserve Bank has refused to continue the licence in connection with The Safe Bank Limited.

4.85. The question of 'D' Class banks, therefore, is now confined to the following 13 banks in all:—

1. Chaldean Syrian Bank Limited.
2. Gadodia Bank Limited.
3. Jaya Laxmi Bank Limited.
4. The Pangal Nayak Bank Limited.
5. Ambat Bank Limited.
6. The Bharatha Lakshmi Bank Limited.
7. The Indian Insurance and Banking Corporation Limited.
8. The Narang Bank of India Limited.
9. Punjab and Kashmir Bank Limited.
10. The Ganesh Bank of Kurundwad Limited.
11. The Miraj State Bank Limited.
12. The Nadar Mercantile Bank Limited.
13. The Union Bank of Bijapur and Sholapur Limited.

I propose to consider the case of each of the aforesaid 13 banks.

(1) *The Chaldean Syrian Bank Limited, Trichur—*

4.86. This bank is a non-scheduled bank. It was established in the year 1918. The Statistical Tables show that its paid-up capital for the years 1959 and 1960 was Rs. 4,46,000/-, its reserves for the year 1959 were Rs. 3,76,000/- and for the year 1960, were Rs. 4,07,000/- and its deposits for the year 1959, were Rs. 86,55,000/- and for the year 1960 were Rs. 93,83,000/-. According to the bank for the year 1960, its average deposits were Rs. 97,21,760/- and its working funds were Rs. 1,05,80,124/-. Its working funds as given by the bank for the year 1961 were Rs. 1,01,74,479/-. For 2 successive years the working funds of this bank have exceeded Rs. 1 crore and under the provisions of the Sastry Award as modified this bank has ceased to be a D class bank and stands upgraded to Class C-1.

4.87. This bank has 12 branches including the head office but excluding the purely administrative offices. Its net profit for the year 1958 was Rs. 1,67,883/- and it distributed a six per cent dividend free of income tax, utilising Rs. 25,370 for the purpose. For the year 1959, it made a profit of Rs. 1,42,318 and distributed a dividend of 8-1/2 per cent taxable at source and utilised Rs. 36,971 for the purpose. For the year 1960, it made a profit of Rs. 1,13,000 and distributed a five per cent dividend. Out of its 12 branches, 7 are in area IV, 2 are in area III and 3 are in area II and all its branches, except the branch at Coimbatore, are in Kerala State. It has stated that during the year 1959 it employed 27 peons and 58 clerks in all.

4.88. This bank has just emerged from D Class and it is but fair that it should have a little time to adjust itself so as to fall in line with other C Class banks under this award.

(2) *The Gadodia Bank Limited*

4.89. This bank was established in the year 1943. It has in all 8 offices including the Head office but excluding the purely administrative offices. As shown by the Statistical Tables, its paid-up capital in the years 1959 and 1960 was Rs. 10,00,000; its reserves for the year 1959 were Rs. 1,18,000 and for the year 1960 were Rs. 1,50,000 and its total deposits in the year 1959 were Rs. 92,77,000 and in the year 1960 were Rs. 89,54,000. It made a net profit of Rs. 72,510 in the year 1959 and of Rs. 78,165 in the year 1960. The bank has not declared any dividend during the years 1953 to 1960. The working funds of the bank for the year 1959 exceed Rs. 1 crore. The working funds of the bank as given by the

bank for the year 1960 amount to Rs. 1,08,00,000 and for the year 1961 amount to Rs. 94,50,000. Out of 8 offices, 5 are in Area I and 3 are in Area II. In the year 1959 this bank employed 59 persons in the clerical cadre, 4 in the supervisory cadre and 29 in the subordinate cadre.

4.90. By reason of the increase in its working funds over rupees one crore continuously for a period of two years as provided in the Sastry Award this bank would fall in Class C-1 according to the Sastry Award as modified.

4.91. In view of the fact that this bank has gone into C-1 Class during the pendency of the proceedings before this Tribunal, it is necessary that it should have a little time to adjust itself so as to fall in line with other C Class banks under this award.

(3) *The Jaya Laxmi Bank Ltd., Mangalore.*

4.92. This non-scheduled bank was established in the year 1923. The Statistical Tables show that its paid-up capital for the years 1959 and 1960 was Rs. 5,00,000, its reserves in the year 1959 were Rs. 2,12,000 and in the year 1960 were Rs. 2,20,000 and its deposits for the year 1959 were Rs. 87,79,000 and for the year 1960 were Rs. 1,02,33,000. The working funds of this bank as on 31st December 1960 and 31st December 1961 as given by the bank, have been Rs. 1,06,68,753 and Rs. 1,10,45,957 respectively.

4.93. For two years in succession, this bank's working funds have exceeded rupees one crore. This bank has ceased to be a D Class bank and is liable to be regarded as a C-1 Class bank, under the Sastry Award as modified. It made a profit of Rs. 55,000 in the year 1959 and of Rs. 41,000 in the year 1960. It declared a dividend of 8 per cent subject to tax for the year 1959 and of 6 per cent subject to tax for the year 1960. This bank has 3 branches in Area II, 1 branch in Area III and 10 branches in Area IV.

4.94. The bank has filed a written statement. It has pleaded that the new wage structure "proposed to be considered" would be beyond the capacity of smaller banks and that the same may not be made applicable to this bank.

4.95. This bank also has just emerged from D Class and it should have a little time to adjust itself so as to be in line with other banks in C Class under my award.

(4) *The Pungal Nayak Bank Limited, Udipi.*

4.96. This bank was founded in the year 1920. As shown in the Statistical Tables in the year 1959 its paid-up capital was Rs. 4,99,000 and in the year 1960 the same was Rs. 5,00,000, its reserves in the year 1959 were Rs. 1,59,000 and in the year 1960 were Rs. 1,87,000 and its deposits in the year 1959 were Rs. 91,58,000 and in the year 1960 were Rs. 1,15,94,000. Its working funds for the year 1961 as given by the bank, amounted to Rs. 1,27,74,806. It had 18 branches including the head office in the year 1959 and 20 branches including the head office in the year 1960. It has 3 branches in Area II, 3 branches in Area III and 14 branches in Area IV. It distributed a dividend of 5.80 per cent subject to tax for the year 1959 and of 8 per cent subject to tax for the year 1960. This bank was not before the Sastry Tribunal. Its working funds for 2 years have exceeded Rs. 1 crore. If the Sastry Award as modified was applicable to this bank it would have ceased to be in D Class and would have gone to C-1 Class. It is but fair that it should have some relief before it adjusts itself so as to bring itself in line with other banks in C Class under this Award.

4.97. That leaves only 9 banks which may fall in Class D.

(5) *Ambat Bank Limited, Chittur.*

4.98. This bank was established in the year 1930. It is a non-scheduled bank. As shown by the Statistical Tables, its paid-up capital for the years 1959 and 1960 was Rs. 71,000, its reserves for the year 1959 were Rs. 75,000 and for the year 1960 were Rs. 77,000 and its deposits for the year 1959 were Rs. 5,61,000 and for the year 1960 were Rs. 6,33,000. It made a net profit of Rs. 14,000 in the year 1957 which went down to Rs. 4,351 in the year 1958. Its profits went up to Rs. 7,106 in the year 1959 and to Rs. 8,647 in the year 1960. It has not paid any dividends during these four years. Its total working funds for the year 1961 according to the bank amounted to Rs. 7,54,000. It has in all three offices out of which two are in Kerala State and one in Madras State. All these offices are

in Area IV. This bank has come up before this Tribunal because it has one of its offices outside the State in which its other offices are situated. It is a very small bank and it cannot bear the burden of basic wages and dearness allowance for C class banks. This bank will be required to be placed in the Excepted List of banks if Class C is to cover all banks with working funds below Rs. 7½ crores.

(6) *The Bharatha Lakshmi Bank Limited.*

4.99. This bank was established in the year 1929. As shown by the Statistical Tables, its paid-up capital during the years 1959 and 1960 was Rs. 7,00,000, its reserves were, for the year 1959, Rs. 1,15,000 and for the year 1960, Rs. 1,22,000 and its deposits for the year 1959, were Rs. 86,82,000 and for the year 1960, were Rs. 86,88,000. Its working funds, as on 31st December 1961, as given by the bank, amounted to Rs. 96,42,000. This bank had 16 branches in the years 1959 and 1960 including the head office, but excluding purely administrative offices. This bank has filed a statement showing net profits, not losses etc., made by the bank during the years 1929 to 1959 and also showing the amount of dividends declared. It appears from the statement that except during the years 1949, 1952 and 1954, when the bank had made losses, it has made profits. This bank has not declared any dividend since the year 1949. This bank opened two branch offices in the year 1958, one at Hyderabad and the other at Kothapeta. For the year 1956, it made a net profit of Rs. 47,781, for the year 1957, it made a net profit of Rs. 51,319, for the year 1958, it made a net profit of Rs. 19,871, for the year 1959, it made a net profit of Rs. 32,225 and for the year 1960 it made a net profit of Rs. 38,689. This bank has one office in Madras and its other offices are in the State of Andhra Pradesh. It has one office in Area I, four offices in Area II, four offices in Area III and seven offices in Area IV. The bank has submitted that ever since 1953, the service conditions of the employees were governed by the negotiated mutual agreements from time to time upto 31st December 1959. The bank in its written Statement has stated that it was only from 1st January 1959 that as a result of the agreements, it was almost on a par with the Sastry Award scales of pay and allowances. During the year 1959 the bank employed 52 persons belonging to subordinate staff and 68 persons belonging to clerical staff. The bank has prayed that the existing terms and conditions of service may be permitted to continue under negotiated agreement or otherwise till such time as a Commission of enquiry took stock of the position of small banks as provided by the Bank Award Commission in respect of D Class banks.

4.100. This is a bank in the private sector and has been existing since the year 1949 without distributing any dividend to its shareholders. No evidence has been led on behalf of the bank showing any special circumstances peculiar to the bank which had brought about such a result. It is, however, fair that this bank should have some relief for some time if it is to be placed in Class C before it could fall in line with other banks comprised in that Class.

(7) *The Indian Insurance and Banking Corporation Limited, Trichur.*

4.101. It is a non-scheduled bank established in the year 1933 having a paid-up capital of Rs. 3,85,000. As shown by the Statistical Tables, its reserves for the year 1959 amounted to Rs. 2,13,000 and for the year 1960 amounted to Rs. 2,30,000 and its total deposits for the year 1959 were Rs. 74,01,000 and for the year 1960 were Rs. 66,08,000. Its working funds as on 31st December 1960 and 1961 as given by the bank were Rs. 79,96,000 and Rs. 67,76,000 respectively. Its net profits have been Rs. 66,000 in 1957, Rs. 63,000 in 1958, Rs. 79,000 in 1959 and Rs. 84,000 in 1960. It declared a dividend of 3 per cent. free of income tax in 1957 of 4 per cent. free of income tax in 1958, of 5 per cent. taxable in the year 1959 and of 6 per cent. taxable in the year 1960. This bank has seven offices, out of which 2 are in Area II, 1 in Area III and 4 in Area IV. Out of these 7 offices, six of them are in Kerala State and only one office is in Madras State, at Salem. It voluntarily gave effect to the provisions of the Sastry Award as modified in the exempted area from 1st July 1954. This bank has been included in the reference because one of its branch offices happens to fall within the Madras State.

4.102. If Class D is abolished this bank will be in need of some relief before it falls in line with other banks of its class and it is but fair that it should get such relief.

(8) *Narang Bank of India Limited, New Delhi.*

4.103. This scheduled bank was incorporated in the year 1942. In the year 1958, it had a paid-up capital of Rs. 18,88,000. The same was reduced to Rs. 10,02,423

under an order of the Court, dated 2nd December 1958 on the ground that a part of its share capital was not represented by any assets. As shown by the Statistical Tables, its paid-up capital for the years 1959 and 1960 has been Rs. 10,02,000, it has no reserves and its deposits for the year 1959 were Rs. 20,96,000 whilst the same for the year 1960 were Rs. 20,94,000. It has filed a statement showing that for the year 1955, it suffered a loss of Rs. 11,801, for year 1956, it suffered a loss of Rs. 8,763, for the year 1957, it suffered a loss of Rs. 5,078 and for the year 1958 it suffered a loss of Rs. 5,57,779. From the Directors' Report for the year ended 31st December 1958 it appears that the banking transactions had resulted in a profit of Rs. 21,411 but the Directors had considered it advisable to write off bad debts amounting to Rs. 5,60,029. It is stated that a further sum of Rs. 19,160 was also written off and thereby the profit of Rs. 21,411 had been converted into a loss of Rs. 5,57,778. In the Directors' Report for the year ended 31st December 1959, it has been stated that they had decided to write off Rs. 10,640 as a pre-partition bad debt and Rs. 26,786 as loss on pre-partition banking investments, and that the profit of Rs. 25,423 was thereby converted into a net loss of Rs. 12,003. In the Directors' Report for the year 1960 it is stated that the working of the bank for the year had resulted in a net profit of Rs. 25,164 and that the Directors considered it advisable to write off the pre-partition advances amounting to Rs. 2,98,988 as also Rs. 2,500 being reduction in capital effected by the company in respect of the bank's pre-partition investments in shares. It carried forward a loss of Rs. 1,59,261.

4.104. This bank has four branches including the head office, but excluding purely administrative offices. This bank has not declared any dividends for 7 years. This bank was under moratorium for some time. The moratorium, however, has been lifted. This bank is in the private sector and it is continuing its existence without any distribution of dividends to the shareholders.

4.105. If Class D is abolished this bank will have to be placed in the Excepted List of banks.

(9) *The Punjab and Kashmir Bank Limited*

4.106. This bank is a non-scheduled bank established in the year 1912. As shown by the Statistical Tables its paid-up capital for the years 1959 and 1960 was Rs. 17,82,000, its reserves for the year 1959 were Rs. 9000 and for the year 1960 were Rs. 10,000 and its deposits for the year 1959 were Rs. 23,92,000 which have gone down in the year 1960 to Rs. 14,88,000. It had four offices in the year 1959 including the head office. In the year 1960 it had five offices including the head office. Out of the five offices, three of them are situate in Delhi, one is situate at Shrinagar and the other at Jammu. The provisions of the Industrial Disputes Act, 1947, are not applicable to the State of Jammu and Kashmir and hence the workmen employed by this bank at Shrinagar and Jammu would not be covered by the Reference. The only workmen employed at the three offices at Delhi would be covered by the Reference.

4.107. This bank is working under a scheme of arrangement sanctioned by the Punjab High Court as finally amended on 14th March 1955. In the year 1958, the transactions of the bank in the "New Fund" resulted in a profit of Rs. 8,171. During the year 1959 the transactions in the New Fund resulted in a net profit of Rs. 10,208. In the year 1960 the bank incurred a loss of Rs. 5,732 in respect of the transactions in the New Fund. This bank has not declared any dividend for some time past.

4. 108. This bank is a small bank and needs to be placed in the Excepted List, if Class D is abolished.

(10) *Ganesh Bank of Kurundwad Limited*

4.109. This bank was not before the Sastry Tribunal. It is a non-scheduled bank and was established in 1920 at Kurundwad. It has in all two offices, one at Kurundwad with a population of 9,744 according to the 1951 census in the Maharashtra State and the other at Kagwad with a population of 5,846 according to that census. Kagwad is a village at a distance of 10 miles from Kurundwad. The Kagwad branch was started in May 1958. This bank is a small bank, employing a few employees. As shown in the Statistical Tables, the paid-up capital of this bank for the years 1959 and 1960 was Rs. 38,000, its reserves for the said years were Rs. 88,000 and its total deposits for the year 1959 were Rs. 8,33,000 and for the year 1960 were Rs. 9,49,000. The working funds of the bank as on 31st December 1960 and 31st December 1961 as given by the bank were Rs. 11,11,895 and Rs. 11,22,323 respectively. It made a profit of Rs. 15,000 in the year 1957, Rs. 11,000 in the year 1958, Rs. 13,000 in the year 1959 and Rs. 15,000

In the year 1960. In the years 1957 and 1958 it declared a dividend of 8 per cent income tax free. In the year 1959 it declared a dividend of 11 per cent taxable and in the year 1960 it declared a taxable dividend of 10 per cent. Out of the 12 persons employed by this bank in the year 1960, 4 belong to subordinate staff. It gives a basic pay of Rs. 122 to its accountant with Rs. 25 as dearness allowance and Rs. 15 as special allowance making in all Rs. 162. In view of the smallness of its resources and the smallness of the staff, this bank needs to be placed in the Excepted List of banks if Class D is to be abolished.

(11) *The Miraj State Bank Limited*

4.110. This bank was not before the Sastry Tribunal. This scheduled Bank was established in the year 1929. As shown in the Statistical Tables its paid-up capital for the years 1959 and 1960 was Rs. 6,00,000, its reserves for the aforesaid years were Rs. 6,20,000 and its deposits for the year 1959 were Rs. 80,35,000 and for the year 1960, were Rs. 82,66,000. Its working funds as on 31st December 1961, as shown by the bank, amounted to Rs. 95,00,000.

4.111. This bank has 8 branches. It has 3 branches in Area IV and 5 branches in Area III. This bank paid a dividend of 7-1/2 per cent free of tax for the year 1958 and it distributed a dividend of 8.88 per cent subject to tax for the year 1959 and a similar dividend for the year 1960. As a result of the re-organisation of States, Laxmeshwar where the bank has a branch now is included in the State of Mysore. The rest of the branches are in the State of Maharashtra. The total number of workmen employed in the year 1959 consisted of 23 members of the subordinate staff and 29 members of the clerical staff.

4.112. This bank has contended that this Tribunal has no jurisdiction to entertain the reference in so far as it relates to the bank and its employees. The Bank contended that it was governed by the Bombay Industrial Relations Act, (18 of 1946) and not by the Industrial Disputes Act, (14 of 1947), on the ground that prior to the year 1956, all the offices of the bank were situate in the former composite State of Bombay. There is no substance in this plea. At the date when the reference was made, the bank had its branches in more than one State and was a banking company within the meaning of the Industrial Disputes Act, 1947. It has further contended that this Tribunal has no jurisdiction on the ground that on 25th June 1952, an agreement was arrived at before the Government Labour Officer, Kolhapur, applicable to the bank's head office at Miraj, the provisions whereof had been subsequently extended by a similar agreement to other branches of the bank. It was urged that this settlement which was entered into and registered under the Bombay Industrial Relations Act, 1946 was to remain in force and was binding on the parties until it was terminated by two months' notices by either party, and that as such notice had not been served by the workmen on the Bank the said agreement was legally binding on the workmen and there was no industrial dispute so far as the bank was concerned and therefore, the Central Government was not competent to make the reference. It is not necessary to deal with this argument at any length. It is sufficient to point out that in any view of the matter it is open to the Central Government to make a reference even where no dispute actually exists between any particular bank and its employees under the provisions contained in section 10(1)(5) which runs as under:—

"Where a dispute concerning any establishment or establishments has been *** referred to *** a National Tribunal under this section and the appropriate Government is of opinion, whether on an application made to it in this behalf or otherwise, that the dispute is of such a nature that any other establishment, group or class of establishments of a similar nature is likely to be interested in, or affected by, such dispute, the appropriate Government may, at the time of making the reference or any time thereafter but before the submission of the award, include in that reference such establishment, group or class of establishments, whether or not at the time of such inclusion any dispute exists or is apprehended in that establishment group or class of establishments".

The provisions of this section cover this bank.

4.113. In its written statement, the bank has claimed that it should be exempted from the provisions of the award. In the alternative, the bank has submitted that it could not afford the scales of pay and dearness allowance as well as the terms and conditions of employment prescribed by Sastry Award as modified by the Report of Gajendragadkar Commission, and that it should be placed in a class

of its own which may be called 'E' class. There is no case made out for creating a new class for this bank or exempting it from the operation of the award.

4.114. It appears to be a well-managed bank. In view of the fact that if Class D is abolished, it will have to pay remuneration to workmen as a C Class bank, it is entitled to some relief before it falls in line with other C Class banks.

(12) *Nadar Mercantile Bank Limited.*

4.115. This bank was not before the Sastry Tribunal. This non-scheduled bank was established in 1947. It has only two offices—one at Trivandrum in Kerala and the other at Martandam. As a result of the re-organisation of the States, Martandam fell within the territorial limits of Madras State and thus this bank became one of the banks having branches in more than one State and has come up before this Tribunal. Trivandrum is in Area II and Martandam is in Area IV.

4.116. As shown in the Statistical Tables the paid-up capital of the bank for the year 1959 was Rs. 1,32,000 and for the year 1960 was Rs. 1,40,000, its reserves for the year 1959 were Rs. 9,000 and for the year 1960 were Rs. 10,000/- and its total deposits for the year 1959 were Rs. 1,99,000/- which came down to Rs. 1,85,000/- in the year 1960. Its working funds as on 31st December, 1961 as given by the bank were Rs. 3,29,999/-. It made a net profit of Rs. 4,229/- in the year 1957, of Rs. 718/- in the year 1958, of Rs. 3,149/- in the year 1959 and of Rs. 10,601/- in the year 1960. It has not declared any dividend for the years 1958 to 1960. Its staff consists of 11 members excluding three officers. Its Secretary draws a salary of Rs. 110/-, its agent at Martandam draws Rs. 105/- and its agent at Trivandrum draws Rs. 85/-. Its senior clerk gets Rs. 95/- and the lowest clerk gets Rs. 65/-.

4.117. If Class D is abolished, this bank will be required to be placed in the Excepted List of banks.

(13) *The Union Bank of Bijapur and Sholapur Limited*

4.118. This bank was not before the Sastry Tribunal. This bank was established in the year 1908. As shown in the Statistical Tables it had a paid-up capital of Rs. 1,99,000/- in 1957 which rose in the year 1960 to Rs. 3,86,000/-. Its reserves were Rs. 1,19,000/- in 1957 which have gone down to Rs. 96,000/- in 1960, its total deposits for the year 1960 were Rs. 43,39,000/-. Its working funds as on 31st December, 1961 have been shown by the bank at Rs. 49,52,000/-. It made a net profit of Rs. 24,000/- in 1957 Rs. 25,000/- in 1958, Rs. 18,000/- in 1959 and Rs. 35,000/- in 1960. In 1957 it declared a dividend of 4-1/2 per cent, free of tax. In 1958 it declared a dividend of 1.5 per cent, free of tax and in 1959 it declared a dividend of 1.5 per cent taxable. It has not declared any dividend in 1960. This bank has in all six offices of which five are situated in the Mysore State and one is situated at Sholapur in the Maharashtra State. It has one branch in Area II, two branches in Area III and three branches in Area IV. In the year 1959 the strength of its staff was 61 out of whom 10 were officers, 39 were clerks and 12 were members of subordinate staff. Its A grade staff which includes officers receives Rs. 100/- going upto Rs. 210/- with dearness allowance of Rs. 40/- and grade allowance of Rs. 10/-. Its B grade staff is in the scales of Rs. 60 to Rs. 150 with dearness allowance of Rs. 40 and grade allowance of Rs. 5/-. Its clerical scale is Rs. 44/- to Rs. 114/- with dearness allowance of Rs. 40/-. Its peons grade is Rs. 25/- to Rs. 35/- with dearness allowance of Rs. 30/-. This bank has come up before this Tribunal because it has one branch in Maharashtra State.

4.119. This bank is required to be put in the Excepted List of banks if Class D is to be abolished.

4.120. Having carefully considered the various demands of the employees, the replies of the banks, the arguments advanced before me and the various exhibits relating to the subject, I have reached the conclusion that it is not desirable to have a separate class for the nine banks which are before me with working funds below rupees one crore. If the position of these nine banks is compared *inter se*, there are some banks which are extremely small and cannot be compared with some of the other banks. For instance, the Ambat Bank Ltd., the Ganesh Bank of Kurundwad Limited or the Nadar Mercantile Bank Limited, cannot be compared with the Miraj State Bank Limited. The case of the Miraj State Bank Limited, the Indian Insurance and Banking Corporation Limited, and the Maratha Lakshmi Bank Limited may be looked at differently from the case of the other six banks which would otherwise fall in Class D. Even after the Sastry Tribunal for

the first time constituted a separate class for banks having working funds below rupees one crore, the Labour Appellate Tribunal and the Bank Award Commission did not consider that such a class should permanently subsist. The Labour Appellate Tribunal placed the life of that class at five years, whilst the Bank Award Commission considered it proper that the case of these banks should be separately examined by a commission at the end of this period of five years. The number of banks which would otherwise fall in this class has considerably dwindled. Some of such banks would bear the burden of Class C if some relief is given to them for some time. There are six banks, viz., the Ambat Bank Limited, the Ganesh Bank of Kurundwad Limited, the Nadar Mercantile Bank Limited, the Narang Bank of India Limited, the Punjab and Kashmir Bank Limited, and the Union Bank of Bijapur and Sholapur Limited which may not be able to bear the burden of a C class bank under this award within a measurable distance of time. It is quite possible that even out of these banks, some of them may get amalgamated with other banks. In order that there may be created a separate class of banks, it is requisite that there should be some degree of permanency attached to that class and that the class should comprise a fair number of banks. It seems to me to be desirable that instead of creating a separate class for the aforesaid six banks, they should be placed in a separate list called the "Excepted List", so that their position may be individually watched and considered as and when occasion arises. Having regard to the low paying capacity of these six banks, it is necessary that there should be separate scales of pay provided for these banks and I am providing for the same in other parts of my award. Save as otherwise expressly provided in this award, these banks in the "Excepted List" will be governed by the same terms and conditions of service as other banks within Class C.

4.121. As regards the Bharatha Lakshmi Bank Ltd., the Indian Insurance and Banking Corporation Ltd. and the Miraj State Bank Limited, they will be going to Class C under my award. In my view, they are able or should be able to bear the burden of my award as applicable to C Class banks. In order that the change-over may be smooth, I am providing for some relief to these banks in other parts of my award.

4.122. As regards the Chaldean Syrian Bank Ltd., the Gadodia Bank Limited, the Jaya Lakshmi Bank Limited, and the Pangal Nayak Bank Ltd., as they have to bear the burden of a bank in the higher class, they are entitled to some relief for some time before they fall in line with other banks falling within Class C under my award and I am providing for such relief in other parts of this award.

4.123. This brings me to the question as to what should constitute "working funds". The Sastry Tribunal in paragraph 65 has laid down that the expression "working funds" would mean paid-up capital, reserves and the average of the deposits for the 52 weeks of each year for which weekly returns of deposits were submitted to the Reserve Bank of India under the provisions of the Reserve Bank of India Act. The principle laid down by the Sastry Tribunal in this connection has not been interfered with by the Labour Appellate Tribunal or by the Bank Award Commission. The Indian Overseas Bank Employees Union, Madras has claimed that the expression "working funds" should include paid-up capital, all reserves deposits, unpaid dividends, bank borrowings, margins on letter of credits, guarantees, bills purchased and sundry creditors. It has been pointed out on behalf of the banks that the borrowings of banks may be for various purposes and may be incurred even to meet a capital liability. It has been urged that they do not constitute a constant item of resources, that they are subject to wide fluctuations and are resorted to by banks only in cases of emergency and that owing to the high rate of interest on such borrowings, the funds so realised are not in most cases utilised for the purpose of advancing them at a higher rate of interest in order to make profits. In my view, no case is made out for changing the present content of the expression "working funds".

4.124. In considering the question what should be regarded as deposits, the Sastry Tribunal has provided for an average of the deposits for the 52 weeks of each year for which weekly returns of deposits are submitted to the Reserve Bank of India under the provisions of the Reserve Bank of India Act. I consider that to be a fair measure for calculating the extent of the deposits for the purpose of calculating the same under the heading "working funds". For the purpose of classifying banks, under this award the expression "working funds" will mean paid-up capital, reserves and the average of the deposits for the 52 weeks of each year for which weekly returns of deposits are submitted to the Reserve Bank of India under the provisions of the Reserve Bank of India Act.

4.125. By a further direction given by the Sastry Tribunal the banks, which were parties before that Tribunal, were directed to publish and exhibit a statement showing such average of the weekly returns of deposits in the first month of the next succeeding calendar year together with a certificate from its auditors as to the correctness of the statement or a certificate from the Reserve Bank of India to that effect. I give the same directions in connections with the banking companies and corporations which are before me.

4.126. As regards the change in the classification of a particular bank in view of its working funds having risen above or gone below the limit prescribed for the class in which such bank is placed, the Sen Tribunal in paragraph 48 of its award, had recommended that "if in future it should so happen that the working fund of a particular bank has been below the lower limit or has been higher than the upper limit set for its class continuously for a period of two years, it should then be deemed to have passed into the next lower or the next higher class, as the case may be, provided that the directions made in this award are still being followed by the bank at that date, and provided further that such change will not adversely affect the existing employees". The Sastry Tribunal gave a similar direction and further directed that relevant date for calculating the working funds would be 31st December of each year. On behalf of a number of employees it was contended that the aforesaid period of two years should be reduced to a period of 52 weeks for the purpose of effecting a change. I consider that the rule of two years is a salutary rule. I give directions similar to those given by the Sastry Tribunal.

4.127. A number of banks which were before me have been amalgamated with other banks and the process of amalgamation is being increasingly adopted or enforced. Amalgamations conducted on proper lines have obvious advantages such as the economics resulting from large scale organization, the spreading of risks, the weeding out of unhealthy competition in banking business and the improvement in the standard of bank management. In view of the present economic conditions in the country and in view of the special needs of the banking industry, it is desirable that this process of amalgamation should be encouraged. It may happen that as a result of amalgamation, the working funds of a bank may put the bank in a class higher than the one it occupied before amalgamation. This may operate as a deterrent to some banks in amalgamating with other banks. It is desirable that for some time at least the amalgamated bank should not be put to the burden of paying higher wages to its employees by reason of being put in a higher class only by reason of the amalgamation. In order to provide for such a contingency, both the Sen and Sastry Tribunals have provided that on amalgamation the resultant bank should for a period of three years from the date of amalgamation be deemed to belong to the highest class to which any of the amalgamating banks belonged before the amalgamation and that thereafter when it became necessary to apply the scales of pay appropriate to the class to which the bank belonged as per the classification made in the award the procedure laid down regarding adjustment should be followed. I give similar directions as regards banks which are before me.

4.128. Under this award banks have been classified into 3 classes (1) Class A: banks with working funds amounting to Rs. 25 crores and above and all Exchange Banks.

(2) Class B: banks with working funds amounting to Rs. 7½ crores and above but less than Rs. 25 crores and (3) Class C: banks with working funds below Rs. 7½ crores.

Classes A and B under this award are the same as Classes A and B under the Sastry Award. As regards Class C under this award, the same comprises banks falling within Class C and Class D under the Sastry Award. It is necessary for me to classify banks which are at present effectively before me. In order to maintain continuity, I have, out of the banks which are before me, included in Class A, Class B and Class C such banks as at present would fall within Class A, Class B and Class C respectively under the Sastry Award. I direct that for the purpose of considering hereafter whether a bank has gone to a higher class or to a lower class the working funds of the bank calculated on the basis aforesaid as on 31st December, 1960 should also be taken into consideration.

4.120. I classify the banks which are before me as under:--

Class A will comprise the following 23 banks:--

- (1) The Allahabad Bank Limited,
- (2) The Bank of Baroda Limited,
- (3) The Bank of India Limited,
- (4) The Canara Bank Limited,
- (5) The Central Bank of India Limited,
- (6) The Devkaran Nanjee Banking Company Limited,
- (7) The Indian Bank Limited,
- (8) The Indian Overseas Bank Ltd.,
- (9) The Punjab National Bank Limited,
- (10) The State Bank of India,
- (11) The Union Bank of India Limited,
- (12) The United Bank of India Limited,
- (13) The United Commercial Bank Limited,
- (14) The American Express Co. Inc.,
- (15) The Bank of China,
- (16) The Chartered Bank,
- (17) Comptoir National D'Escompte de Paris,
- (18) The Eastern Bank Limited,
- (19) The First National City Bank of New York,
- (20) The Hongkong and Shanghai Banking Corporation,
- (21) The Mercantile Bank Ltd.,
- (22) The National and Grindlays Bank Ltd. and
- (23) The Netherlands Trading Society.

Class B will comprise the following 13 banks:--

- (1) The Andhra Bank Limited,
- (2) The Bank of Maharashtra Limited,
- (3) The Canara Banking Corporation Limited,
- (4) The Canara Industrial and Banking Syndicate, Limited,
- (5) The Hindustan Commercial Bank Limited,
- (6) The State Bank of Bikaner,
- (7) The State Bank of Hyderabad,
- (8) The State Bank of Indore,
- (9) The State Bank of Jaipur,
- (10) The State Bank of Mysore,
- (11) The State Bank of Patiala,
- (12) The State Bank of Saurashtra, and
- (13) The State Bank of Travancore.

Class C will comprise the following 26 banks and the 6 banks in the Excepted List:--

- (1) The Bank of Behar Limited,
- (2) The Bank of Rajasthan Limited,
- (3) The Bharatha Lakshmi Bank Limited,
- (4) The Catholic Syrian Bank Limited,
- (5) The Chaldean Syrian Bank Limited,
- (6) The Cochin Commercial Bank Limited,
- (7) The Gadodia Bank Limited,
- (8) The Hindustan Mercantile Bank Limited,

- (9) The Indian Insurance and Banking Corporation Limited,
- (10) The Jaya Laxmi Bank Limited,
- (11) The Karnataka Bank Limited,
- (12) The Laxshmi Commercial Bank Limited,
- (13) The Miraj State Bank Limited,
- (14) The National Bank of Lahore Limited,
- (15) The Nedungadi Bank Limited,
- (16) The New Bank of India Limited,
- (17) The Oriental Bank of Commerce Limited,
- (18) The Pandyan Bank Limited,
- (19) The Pangal Nayak Bank Limited,
- (20) The Punjab Co-operative Bank Limited,
- (21) The Punjab and Sind Bank Limited,
- (22) The Sangli Bank Limited,
- (23) The South Indian Bank Limited,
- (24) The United Industrial Bank Limited,
- (25) The Vijaya Bank Limited,
- (26) The Vysya Bank Limited,

Banks in the Excepted List

- (1) The Ambat Bank Limited,
- (2) The Ganesh Bank of Kurundwad Limited,
- (3) The Nadar Mercantile Bank Limited,
- (4) The Narang Bank of India Limited,
- (5) The Punjab and Kashmir Bank Limited,
- (6) The Union Bank of Bijapur and Sholapur Limited.

(ii) Categorisation of Areas

4.130. In connection with all-India adjudications it has been found requisite to fix the scales of pay for workmen having regard to the variations in the prices of commodities prevailing in many parts of the country and the differences in the standards of living found in different parts of the country. A need-based wage must take into account the needs of the workmen having regard to the place where they are required to work. There is considerable difference in the cost of living and the standards of living among people living in places like Bombay, Delhi and Calcutta and people living in other urban, and in semi-urban and rural areas. The variations in prices at various places differ to a considerable extent. Even the percentage of rise or fall in respect of the same or similar class of commodities over a period of years is not found to be the same in various parts of the country. The all-India average working class consumer price index No. (base shifted to 1949=100) is based on the indices for 27 centres in the country. The indices for various centres show that between 1951-52 and 1960-61 the index number as regards Ludhiana (Punjab) rose from 100 to 103, Ahmedabad (Gujarat) from 104 to 120, Bombay (Maharashtra) from 107 to 136, Bangalore (Mysore) from 115 to 147 and Madras City (Madras) from 104 to 146 and Delhi from 108 to 121. The wide fluctuations both in the prices of commodities at various places and in the rise therein from time to time render difficult the task of fixing wages on an all-India basis. The standards of living, the type of diet, the type of clothing, the type of other amenities enjoyed vary from place to place, having regard to the geographical and climatic conditions at different places, the different types of crops grown in different parts of the country, the availability of transport, the proximity to urban places and the habits of the people. By and large there is a marked difference in the pattern of consumption and the standard of living of the members of the subordinate staff and the members of the clerical staff. Apart from the needs of the workmen, the needs of the industry, the need to open branches in semi-urban and rural areas the needs of the people of those areas and the needs of national planning and development have to be taken into account.

4.131. The Sen Tribunal divided the country into three areas for the purpose of fixing wages in the banking industry. In Class I area it included the City

of Calcutta including Howrah, Barrackpore, Behala, Alipore, Cossipore, Garden Reach, Baranagore, Tollygunge, the South Suburban Municipal area and Dum Dum, Bombay including the areas covered by Greater Bombay, the Cities of Delhi and Ahmedabad. In Class II area it included all towns and cities (other than those included in Class I area) shown in the census report of 1941 as possessing populations of 50,000 or more in the Punjab and 1,00,000 or more elsewhere and in Class III area it included all places not included in areas of classes I and II.

4.132. As a result of this classification, Madras fell within Class II area. Shri N. Chandrashekhara Aiyar, a member of the Sen Tribunal, was not very happy about this state of affairs and has expressed his unhappiness about the situation created thereby in his Minute of Dissent in connection with the award of house rent allowance as follows:—

“It is bad enough that statistics have led us to classify Madras in the Class II area xx”.

4.133. The Sastry Tribunal observed that the head offices and branches of the banks were situated in different parts in India, that the cost of living varied in different areas of this sub-continent, that it would not be right to have the same scale of emoluments for the employees in all these places, that it was possible to have a uniform basic pay supplemented by local allowances for different localities on a graded scale according to the cost of living, but it was not easy to prepare a graded scale of local allowances for each of the places on the basis of conditions peculiar to each of them, that the attempt must be to have a smaller number of classified areas as (1) specially costly cities, (2) urban areas and (3) semi-urban and rural areas. It further observed that this three-fold classification would provide the largest scope for uniformity and at the same time would take notes of the pronounced differences in the cost of living between one place and another.

4.134. The Sastry Tribunal after considering the classification adopted by the Sen Tribunal took the view that cities with a population of 12 lakhs and above should be in a class by themselves. It stated that the two important reasons for including Delhi in Class I area were (i) that the population of Delhi was very nearly 12 lakhs and there was no other city which like Delhi was almost in the region of 12 lakhs and (ii) that Delhi as the capital of our republic had got a special importance which was growing every day. The Sastry Tribunal, therefore, placed in Class I area, Bombay, including Greater Bombay, Calcutta including Howrah, Barrackpore, Behala, Alipore, Cossipur, Garden Reach, Baranagore, Tollygunge, South Suburban Municipal Area and Dum Dum, Delhi which would include New and Old Delhi and Delhi Shahadara, Madras and Ahmedabad. Madras City was put in Class I area as its population had risen by that time to 14,16,056. As regards Ahmedabad, though its population would not have justified its inclusion in Class I area, it was placed in that area for reasons based on past awards and in view of the fact that no claim was pressed by banks for its exclusion from Class I area. Class II under the Sastry Award comprised all towns and cities other than those included in Class I area, which according to the census report of 1951, possessed a population of one lakh and more and Class III area comprised all places not already included in Class I and Class II areas.

4.135. In his minute of dissent Shri Tannan has taken an exception to the inclusion of Madras and Ahmedabad in Class I area, stating that they should not be treated on par with Bombay, Calcutta and Delhi. In his view, the employees in Madras spent comparatively less on their clothing, footwear and rent which were important elements of the cost of living.

4.136. There was no appeal before the Labour Appellate Tribunal in connection with this part of the Sastry Award. The Labour Appellate Tribunal proceeded on the basis of the country being divided into three areas.

4.137. Government by its order, dated 24th August 1954 directed that instead of the classification of the country into three areas as adopted in the Sastry Award, it should be divided into four areas. Class I area and Class II area were the same as provided by the Sastry Award. Class III area was to comprise all towns and cities not included in Class I and Class II areas and which according to the Census Report of 1951 contained a population of more than thirty thousand. Class IV area was for the first time created comprising all places not already included in Class I, Class II and Class III areas. Even out of this Class IV area were carved out for special treatment areas situated in

the former Indian States i.e. in Part B States and in Part C States, other than Delhi, Ajmer and Coorg which have been referred to by the Bank Award Commission as Class V area.

4.138. In considering the problem relating to Class IV area the Bank Award Commission has prefaced its remarks with the words following:—

"In considering this problem, it would be material to bear in mind the relevant terms of reference. The object of creating area 4 was to promote development of banking in the country in general and in rural areas in particular. That is why, in considering the propriety or validity of the creation of area 4, the terms of reference require that I should bear in mind the importance of the development of banking in the country generally and in rural areas in particular. Likewise the consideration of this problem should take into account the desirability of avoiding widespread closures of banking companies or their branches; that is the second consideration which has to be borne in mind. The third consideration which the terms of reference correlate with the decision of this point is in respect of the possibilities of effecting economies in the expenses of banking companies, and, as I have already indicated in construing the terms of reference in an earlier chapter, this term of reference by necessary implication requires me to consider legitimate sources for adding to the income of banking companies."

In paragraph 144 it has been stated by the Bank Award Commission that the D Class banks had the highest proportion of offices running at loss and that the number of such offices in areas 4 and 5 was 115 and 59 respectively for the half-year ended the 30th June 1954 and constituted 25.33 per cent. and 23.14 per cent respectively of the total number of offices in each of those areas. It further observed that if the establishment expenditure was to be calculated according to the scales of pay and allowances prescribed under the Labour Appellate Tribunal decision, it would be found that 220 offices may probably be converted into losing offices out of a total of 2,317 profit-earning offices at the end of 1956 and of them, 50 would be in area 4 and 20 in area 5. It has observed that viewed against the background of the net reduction in the number of offices in the post-war period, the number of offices (220) that may have to be closed by the end of 1956 (assuming that all the offices converted thereby into loss-incurring offices would necessarily be closed) did not appear to be so large as to cause any alarm. It has further stated that from the information collected from banks regarding individual offices that may have to be closed during the next 3 years as a result of the burden imposed by the Labour Appellate Tribunal decision, it would appear that in all 47 places were expected to be deprived of banking facilities. Of these as many as 24 were in area 4 and 18 in area 5 and that while a majority of the offices in area 4 were served by B and C Classes of banks, all offices in area 5 were served by B and C Classes of banks alone. The Commission further stated that *prima facie* there appeared to be a case for providing relief in the provisions of the Labour Appellate Tribunal decision as far as they applied to these areas. The Commission observed that the major importance of developing these smaller areas could hardly be exaggerated. In paragraph 146 of the report of the Bank Award Commission it is stated that since in our country the number of places with a population of less than 25,000 predominates, the need for further development of banking in smaller places is apparent. In the same paragraph the Commission has observed as follows:—

"In this connection, it may be observed that bigger banks rely more on larger towns for their business while smaller ones comprising a majority of non-scheduled banks favour smaller towns. Thus out of 2,685 offices of scheduled banks in the Indian Union in 1953 * * * only 798 offices or 29.72 per cent of the total were at places with population upto 25,000; the corresponding number for non-scheduled banks, however, was 699 constituting 55.13 per cent of the total number of their offices."

A reference has been made by the Commission to the findings of the Rural Banking Enquiry Committee appointed by the Government of India in 1949 and to the All India Rural Credit Survey during the years 1951—1953 conducted by the Reserve Bank of India and also to the recommendations of the Rural Banking Enquiry Committee for the exclusion of semi-urban and rural offices of

banks in towns having a population of less than 50,000 from the operation of the Shops and Establishments Act and the awards of Industrial Tribunals. Reference has also been made to the recommendation of the Rural Banking Enquiry Committee as regards the special role played by the Imperial Bank of India in connection with the opening of offices at semi-urban and rural centres in Part A and Part C States and the role to be played by the Co-operative banks in this connection, and the statement made by the Imperial Bank in May 1954 to the Reserve Bank that if the Labour Appellate Tribunal decision was given effect to, the Imperial Bank would find it extremely difficult to implement the expansion programme.

4.139. It has been observed in paragraph 156 of the report of the Bank Award Commission that out of 56,106 workmen (both clerks and subordinates) of the reporting banks in all classes, 4,092 or 7.29 per cent were accounted for by offices in area IV. The Bank Award Commission in its report has observed at the end of paragraph 159 as follows:—

"If, by creating area 4 and fixing for this area a lower wage structure, commercial banks are likely to spread out in rural areas, it would, I think, be worthwhile giving commercial banks the necessary facilities in that behalf. That is one aspect of the matter."

In paragraph 160 it has stated that even on the merits much could be said in favour of the creation of area 4. It is further observed that the division of the country into three banking areas has apparently resulted in the anomaly of including in area 3 places which cannot claim to be similar in material particulars. The Commission apprehended that it would not be unreasonable to assume that the cost of living in places where the population was 30,000 or less would not be the same as in places where the population was a lakh or above 30,000. After examining the difficulty in drawing a line somewhere, the Commission has observed as follows:—

"...by and large it appears to me to be reasonable to divide the area which is described as area 3 in the awards into two areas. Area 3 should consist of places where the—population is between 30,000 and a lakh, and all places where the population is 30,000 or less should be constituted into a separate area."

In this connection, reference has been made to the argument advanced in support of the creation of this additional area that bankmen who worked in branches situated in such places were not wholly dependent on their salaries for maintenance because usually they had some other source to supplement their income. It has been stated by the Bank Award Commission that even on strictly economic grounds it would be difficult to resist the creation of area 4 and that it was very likely that the creation of area 4 might facilitate the spread of banking business into smaller places and that was not a minor consideration. The Bank Award Commission came to the conclusion that Government was justified in creating area 4 and in prescribing for that area a less onerous wage structure.

4.140. As regards area 5 the Bank Award Commission observed in paragraph 163 as follows:—

"... I cannot help coming to the conclusion that the creation of area 5 and the granting of complete exemption to this area was unjustified."

As regards the banks situated in Travancore-Cochin State, the Bank Award Commission stated that such banks with the exception of the Travancore Bank should continue to have the benefit of complete exemption in respect of area 5 for a maximum period of two years from the date of the announcement of the Government's final decision on the report of a special commission which was recommended to be appointed for dealing with the special problems of banks situate in Travancore Cochin State. The Government did appoint a special commission as recommended by the Bank Award Commission to examine the problems of banks situate in Travancore Cochin State. The said Commission has made its report. Now there is no exempted area like area 5 in which the award of the Sastry Tribunal as modified does not operate.

4.141. The All India Bank Employees' Association has strongly contended that the areawise classification should be completely abolished. It contends that there is no scientific basis for holding that the cost of living varies according to the size of the population in a given area. It referred to several places situate in

lower areas where the prices of essential commodities like food and clothing were higher than those in places situate in higher areas. It has urged that there is no remarkable difference in prices prevailing at places which are situated in lower areas and at other places which fall within higher areas; that as a matter of fact the prices of cloth were higher at places far away from the place of manufacture than in cities where cloth was manufactured; that in some of the project areas the cost of housing and transport was high and that in less populated places where cheaper houses were available, the accommodation was sub-standard.

4.142. As regards food, it has been pointed out that rural areas are not self-sufficient areas so that food may be available at cheap rates. It is pleaded that the classification of areas based on population or of fixing scales of wages was irrational and unscientific and gave rise to many anomalies, that this classification was only of recent origin, that it was not based on any scientific data that the Central Government, the State Governments, the Postal authorities, the Railway authorities, the Reserve Bank of India and the Life Insurance Corporation do not have different scales of pay for their employees according to the areas in which they are employed, that even so far as banks themselves are concerned, the non-workmen staff, etc., do not have scales of pay based on areawise classification and that there was no justification in prescribing different scales of pay in the same institution in its different offices for the same category of employees. It is pointed out that costlier places where large amounts were required to be spent on housing and transport and other conveniences can be suitably dealt with by providing for local allowances and house rent allowances.

4.143. The All India Bank Employees Federation has also equally been critical of the present classification and has opposed it. It has pleaded that on account of rapid rise in the cost of living throughout the country, the differences in the cost of living in different areas have been substantially eliminated, that the cost of living does not merely depend on the population of different centres but it also depends on "the vicinity of the places and many other factors like scarcity and non-availability of the daily requirements and transport difficulties, etc." and that the principle of equal pay for equal work should be accepted in case of the banking industry since the nature of work of their employees is substantially the same irrespective of the size of the banks or the place where they are situated. It has submitted that the scales of pay to be prescribed for the banks should be uniform for all banks in all areas and a difference, if any, on account of special features of any particular place or places should be compensated by means of special allowances.

4.144. The Vadodra Rajya Bank Nokar Sangh and the Surat Bank Employees Union, Surat have made a similar demand. The All India State Bank of India Staff Federation has pleaded that prior to the Sen-Award there were uniform wage scales with additional house rent allowance for Bombay, Calcutta and Delhi, that the areawise classification of branches had created a source of deep discontent among the employees and that the areawise classification was not just or legal or proper or otherwise expedient and that the said classification should be abolished as being opposed to Article 37(2) of the Constitution providing for equal pay for equal work. The State Bank of India Staff Union, Andhra Pradesh, Vijayawada, and Madras Circle have made a similar demand.

4.145. The State Bank of India Employees' Association (Bengal Circle) has pleaded that the classification of areas should be abolished and a uniform scale of pay in the State Bank throughout India should be introduced on the grounds that even before any adjudication the scales of pay were more or less the same throughout India except in the City of Calcutta, Bombay and Madras, that after R. Gupta's award the Bank itself voluntarily introduced a uniform scale throughout India, that the services in the State Bank are transferable, that the existence of different scales in different places causes immense inconvenience and hardship to the employees, that the existence of different scales is a tool in the hands of the employer as a measure of punishment and is a constant cause of industrial dispute, that the officers and supervising staff who are not governed by the award have a uniform scale of wage throughout India, that there is no rational basis on which the cost of living of a particular area can be determined and therefore division into areas cannot be made on any rational basis, that the fixation of areas in accordance with population is wholly irrational and arbitrary and that such unjust and discriminatory classification breeds frustration and serious dissatisfaction. The State Bank of India Employees Association (Delhi Circle) is opposed to the classification of areas, as it is unjust, harsh, discriminatory and against natural justice.

4.146. The All India Bank of Baroda Employees Federation, South Gujarat Bank of Baroda Employees Union, Indian Overseas Bank Employees Union, Madras, Employees Association of the Union Bank of Bijapur and Sholapur, Behar Provincial Central Bank of India Employees Association, United Commercial Bank Employees Association, Agartala, Central Bank of India Employees Association, Patna, Cochin Commercial Bank Employees Association, Cochin, Allahabad Bank Employees Union, Calcutta and the Staff of the Central Bank of India Ltd., Khatauli (U.P.) have also opposed the classification of areas for the purpose of this adjudication.

4.147. The Indian Banks Association has supported the areawise classification. It has submitted that while it was true that in an all-India service a uniform scale of basic pay was usually applied, it seemed to have been overlooked that an employee in an all-India service was liable to be transferred from one place to another unlike an employee in a bank who could at most be transferred from one place to another in the same State. It has denied that different scales for different areas were in any way illogical, unscientific, unjust and unwarranted. It has pleaded that the very fact that the All India Bank Employees Association had made a claim for local allowances to meet the needs of employees of costlier places, only showed how justified the Sastry Tribunal was in classifying areas for fixing the pay scales of bank employees. It has further stated that the Census Reports published by the Government of India should alone be the basis for such classification and that population figures from non-governmental or non-official authorities should not be looked at for the purpose. It contends that Area IV should consist of places with a population of 50,000 and below and not places with 30,000 and below.

4.148. The Bombay Exchange Banks Association has sought to retain the existing areawise classification. It has denied that in all-India services uniform basic scales applied. It has pointed out that the legislature was compelled to make statutory provisions for extending credit facilities to rural and semi-urban areas inasmuch as no banks run on profit motive basis could afford to open branches in such areas. It also submitted that the areawise classification of banks under the Sastry Award as modified should be changed only if the official census figures warranted a change and such change should be effective only from the date of publication of the Census figures in the Gazette of India and that it would be unrealistic to do away with areawise fixation of wages.

4.149. The State Bank of India has pleaded that the demand for a uniform scale of pay in the State Bank throughout India was unreasonable, outmoded and unjustified, that "the previous Award was based on proper consideration of all the circumstances and the reasons inducing the Sastry Tribunal to make its award on this point have not changed", that the Sastry Award as modified took note of the possibility and necessity of transfer of bank employees and prescribed sufficient safeguards, that the reference to uniform scales in respect of officers and supervising staff was irrelevant because such staff was not recruited for or from any particular locality and was attracted to the State Bank's service as the terms of employment were suitable and attractive, that the analogy of Central Government employees in this connection was not helpful, inasmuch as so far as the State Bank employees were concerned, the Sen and the Sastry Tribunals considered the question of uniform scales in respect, *inter alia*, of the Imperial Bank of India and adopted the present set up, that any attempt to evolve a uniform scale of pay would involve a complete revision entailing bringing down the higher to a lower base, that it was denied that the fixation of areas in accordance with population was irrational or arbitrary or that the classification was unjust or discriminatory or bred frustration or dissatisfaction. The State Bank of India denied that the classification was a device to deprive employees of any dues. The State Bank of India has also pleaded that the areawise classification was a realistic one. It has submitted that Article 37 of the Constitution had no application and, that in any event, the areawise classification did not run counter to the provisions of such Article and was reasonable and correct.

4.150. The eight Subsidiary banks of the State Bank of India supported the present areawise classification. The State Bank of Patiala denied that the areawise classification was discriminatory or that it was equitable, fair or reasonable to have one uniform grade in all areas with compensatory local allowance for big cities.

4.151. The Northern India Banks Association has pleaded that under the Sastry Award, the classification of areas was rightly decided upon in view of the fact

that in smaller towns prices of food stuffs, house accommodation and other expenses were much below those obtaining in bigger towns; moreover the problem of transportation in such places did not exist. The Association has further pleaded that as banking still needed to be extended to smaller towns in the country, it would be desirable both in the interest of the country and bank employees themselves, to accept lower scale of emoluments for smaller towns so that industry may continue to expand and develop, that fixing a uniform basic pay would deprive smaller towns of banking facilities and also reduce the total employment potential in the industry and that areas according to the population as per the Sastry Award as modified should continue to be classed into I, II, III and IV as the programme of the expansion of banks could be successfully carried out only on the basis of paying capacity of each branch working in a particular area.

4.152. The National Bank of Lahore Ltd. has characterised the demand made in this connection by the All India Bank Employees Association as a baseless demand and has stated that the demand that a bank employee working in a rural area where the cost of living is radically lower than that of the metropolis or big "Presidency towns" should be paid at the same rate as his counterpart in such big towns, was unreasonable, illogical, unjust and unwarranted. It has stated that the classification of areas was necessary in the very nature of the industry. The Bharatha Lakshmi Bank has stated that rural banking was being developed by small banks only till recently and that this could best be done by small D class banks and has suggested the following classification of areas:—

Area 1—Large cities like Bombay, Calcutta, Delhi, Madras with population of 10 lakhs and over.

Area 2—Cities having population of more than 5 lakhs but less than 10 lakhs.

Area 3—Places having population of 1 lakh and above but less than 5 lakhs.

Area 4—Places having population of 30,000 and above but less than 1 lakh.

Area 5—Rural areas having population of less than 30,000.

The Miraj State Bank Ltd. has pleaded that as far as the areawise division is concerned, the places with populations of less than one lac should be sub-divided into two classes, and places with a population of 20,000 should be placed in a separate class. The Travancore Cochin Bankers' Association, the Kerala Bankers' Association, the Catholic Syrian Bank Ltd., the Gadodia Bank Ltd. and the Jaya Laxmi Bank Ltd. have also opposed the demand of the workmen for the abolition of areawise classification.

4.153. Shri Sule, the learned Advocate on behalf of the All India Bank Employees Association, in the course of the hearing, very strongly urged that there should not be a division of banks on the basis of areas and demanded the abolition of the concept of areas. He stated that prior to all-India adjudication of the disputes in the Banking industry the question of dividing the banks into different areas never arose and the banks of their own accord were giving more or less uniform wages wherever they were stationed, and that the State Industrial Tribunals had prescribed uniform scales of pay by their awards for all places. He submitted that the rise in prices in the cities and what are called country side areas was such that now very little difference existed in the prices of necessary commodities, that population has nothing to do with the cost of living as the prices of commodities depend on the availability of market and facility of transport and that a large number of what are known as rural areas or countryside areas are being speedily urbanised because of the development of the Community Projects. He has pointed out that, there is an increase in railway mileage as a result of new lines being put, that inland transport by the State Transport authorities is being developed, that industrialisation is taking place very speedily and that the expansion of branches of the State Bank and its Subsidiaries had itself added to the urbanisation of the countryside. Shri Sule submitted that in rural areas the rise in prices was much more than in the cities due to urbanisation, that the city price fluctuations were reflected in such areas and that the self-sufficiency in the economy of villages has gone away.

4.154. Shri Dudhia, the learned Advocate on behalf of the All India Bank Employees Federation, supported Shri Sule and added that population was not the only test for classification of areas, but nearness to the industrial towns or

cities should also be considered as a factor which would affect the cost of living of the other neighbouring places. He cited the example of Thana and Kalyan and stated that they were as highly expensive as Bombay. He submitted that the areawise classification for scales of pay was anomalous and unjust.

4.155. A strong case was sought to be made out by the All India State Bank of India Staff Federation and the State Bank of India Staff Union, Andhra Pradesh, for abolition of areawise classification. It was urged that the State Bank of India belonged to the public sector, that 92 per cent of its shares were held by the Reserve Bank of India in respect of whose employees there was no areawise classification, that there was no areawise classification, in respect of other Corporations in the public sector like the Life Insurance Corporation of India, that in the Central Government service including Railways and Posts and Telegraphs there was no such areawise classification, that the transfer of an employee from a higher area to a lower area was itself a hardship inasmuch as there were no comparable educational facilities and amenities available in lower areas and that further hardship should not be inflicted on the employees in the shape of reduced emoluments. They further pointed out that so far as the members of the supervisory staff were concerned, there was no such area-wise classification.

4.156. Shri Jyoti Ghosh, who appeared on behalf of the State Bank of India Employees Association (Bengal Circle), drew a lurid picture of the various hardships which were undergone by persons when they were transferred to lower areas. He said that medicines, like penicillin and other antibiotics which have become an essential part of the modern medical treatment were not available, that there were no hospital facilities and that there were no proper markets where they could buy goods. There were no educational facilities and the employees have often to leave their families when they were asked to do the work of the nation when branches of the State Bank of India were opened in some urban, rural and project areas. He pointed out that branches have been opened by the State Bank of India at Durgapur, Asansol, Burnpur, Bhilai and Rourkela. Durgapur is in Area IV and this place is now called the Ruhr of India. As regards Durgapur, Asansol and Burnpur, he stated that these places have become mining centres and centres of steel projects, that there were other factories situate there which were manufacturing glass, cycles, cables etc. and that these places have become extremely costly places. He complained that the transfer of the staff to these new areas has become an instrument of punishment in the hands of the employers. The employees, apart from their objection to the areawise classification, were opposed to the principle of such classification, on the ground that it offended against the principle of equal pay for equal work. He further contended that the work in the branches was of a pioneering nature, that the strength of the staff was limited, that they had to do work of various types and had to put longer hours of work and that there was no reason why they should be paid less at more disagreeable places of work. He emphasised that the concept of cheaper living in villages was a myth and stated that the suggestion that workmen in the rural areas should be paid less because they have other resources to fall back upon, was in theory untenable and in practice unsound. It was pointed out that when new branches of the bank were opened, experienced hands were required to be sent for the purpose of opening such branches and carry on the work so as to gather the confidence of the public and win its support and induce it to make deposits at such newly opened branches, there was no reason why they should be prejudicially affected by reason of such transfer.

4.157. Arguments to a more or less similar effect were advanced by various representatives of workmen. Strong reliance was placed by workmen on a passage in the Report of the Central Wage Board for the Cement Industry, published in the year 1959. At page 37, paragraph 6.27 it has been stated that the family budget calculations seem to indicate that there were not great variations in the cost of living as between different regions in India and that the same was in accord with the views of Committees and Tribunals. The All India Industrial Tribunal (Colliery Disputes) stated in its Award as under:—

“We ourselves are of the opinion that the conditions existing today would not justify the view that the cost of living differs very much from area to area.”

That Tribunal has quoted the views of the first Central Pay Commission which were cited with approval by the Dearness Allowance Committee, known as the

Gadgil Committee. The views of the first Central Pay Commission were as follows:—

"Whatever might have been the position in the past, conditions existing today do not justify the view that the cost of living differs very much between one part of India and another, apart from particular cities. But it seems to be true that by a continued tradition, standards of living are much lower in certain parts of the country than elsewhere."

4.158. Several exhibits were filed before me in order to show that the prices at same places in lower areas were higher than the prices prevailing in other places in higher areas.

4.159. As against these arguments, it was urged by Shri Phadke on behalf of the Indian Banks association that since the date of the Sastry Award as modified no material change in circumstances had taken place which would warrant making any change therein as regards areawise classification. It was urged that the legislature of the land itself had thought it fit to give a statutory recognition to the fourfold areawise classification and to provide for its continuance for a period of five years and that unless a very strong case was made out for a change therein, no ground existed for disturbing the same.

4.160. In the case of Burn and Company Ltd. and their employees, reported in 1957 (1) Labour Law Journal page 228 the Supreme Court has considered the argument advanced in that case that the Appellate Tribunal in that case was in error in brushing aside the previous award and in deciding the matter afresh, as if it arose for the first time for determination. It has also considered the argument that when once a dispute was referred to a Tribunal and had resulted in an adjudication, such adjudication must be taken as binding on the parties thereto, unless there was a change of circumstances. The Appellate Tribunal in that case had considered that the rule that a previous adjudication was binding on the parties unless there was a change of circumstances was a rule of prudence and not of law. The Supreme Court in that case has expressed itself at page 230 in terms following:—

"Are we to hold that an award given on a matter in controversy between the parties after full hearing ceases to have any force if either of them repudiates it under s.19(6) and that the tribunal has no option, when the matter is again referred to it for adjudication, but it proceed to try it *de novo*, traverse the entire ground once again, and come to a fresh decision. That would be contrary to the well recognized principle that a decision once rendered by a competent authority on a matter in issue between the parties after a full enquiry should not be permitted to be reargued. It is on this principle that the rule of *res judicata* enacted in s.11 of the Civil Procedure Code is based. That section is, no doubt, in terms inapplicable to the present matters, but the principle underlying it, expressed in the maxim *interest rei publicae ut sit finis litium* is founded on sound public policy and is of universal application (Vide Broom's Legal Maxims, 10th Edn. page 218). "The rule of *res judicata* is dictated" observed Sir Lawrence Jenkins C. J. in *Sheoparsan Singh v. Ramnandan Prasad Singh* [1916 L.R. 43 I.A. 91; (1916) Indian Law Reporter 43 Calcutta 694] "by a wisdom which is for all time". And there are good reasons why this principle should be applicable to decisions of industrial tribunals also. Legislation regulating the relation between capital and labour has two objects in view. It seeks to ensure to the workmen who have not the capacity to treat with capital on equal terms, fair returns for their labour. It also seeks to prevent disputes between employer and employees, so that production might not be adversely affected and the larger interests of the society might not suffer. Now, if we are to hold that an adjudication loses its force when it is repudiated under s.19(6) and that the whole controversy is at large, then the result would be that far from reconciling themselves to the award and settling down to work it, either party will treat it as a mere stage in the prosecution of a prolonged struggle, and far from being industrial peace, the awards would turn out to be but truces giving the parties breathing time before resuming hostile action with renewed vigour. On the other hand, if we are to regard them as intended to have long-term operation and at the same time hold that they are liable to be modified by change in the circumstances on which they were based, both the purposes of the legislature would be served. That is the view taken by the tribunals themselves in the Army and

Navy Stores, Ltd. Bombay v. their workmen [1951 (II), Labour Law Journal, 31] and Ford Motor Company of India, Ltd. vs. their workmen [1951 (II) Labour Law Journal, 231] and we are of opinion that they lay down the correct principle, and that there were no grounds for the Appellate Tribunal for not following them."

4.161. In the case of the Indian General Navigation and Railway Company Ltd. and others and their workmen reported in 1960(I) Labour Law Journal at page 561, the Supreme Court has observed at page 562 as under:—

"Apart from the fact that s. 19(6) of the Industrial Disputes Act itself contemplates that the award cannot be binding after it is terminated and therefore the principle of *res judicata* should be applied with caution in industrial disputes which relate to such matters as wages and dearness allowance, there can be no doubt that if circumstances have changed there is a good case for a change in the award."

4.162. So far as the areawise classification is concerned, the previous adjudication relates to the classification of places in the country only into three areas. The fourth area has come into existence as a result of the decision of the Government supported by the findings of the Bank Award Commission and the will of the legislature as expressed in the Industrial Disputes (Banking Companies) Decision Act, 1955. The report of the Bank Award Commission, though a fairly exhaustive one given by a very eminent person after hearing all persons affected thereby, is made within the ambit of the terms of the reference and cannot be equated with a judicial determination by an Industrial Tribunal for the purpose of the application of the principles founded on *res judicata*. Neither the action of the Government nor the will of the legislature as expressed by parliamentary legislation can be regarded as being operative in the same manner. The Parliament itself has by legislation provided a period of 5 years for the operation of the Labour Appellate Tribunal's decision as modified by the Act itself. There may be very weighty considerations which may have moved the Government and the Parliament to make these modifications. There are many reasons given by the Bank Award Commission in support of the creation of this new area. These reasons will have to be examined. When a new classification has been adopted, the question how that classification has worked in practice and whether it has resulted in the creation of anomalies and the imposition of unnecessary hardships and whether in fact it has worked unjustly will have to be considered.

4.163. It is urged by Shri Phadke that there exists, in fact, a substantial difference in the prices of commodities and the standards of living in different parts of the country. He urges that what may be taken into account for the purpose of classifying areas and should form the basis of such classification would be the cost of living, the paying capacity of the employer in the area concerned, or in the alternative the area's capacity to earn money for the employer from which to pay, the tempo of work in lower areas affecting the rate of wages and the character of the work in lower areas whether it is intermittent and seasonal involving less strain. He emphasized that if the existing arrangement was to be scrapped, then the only alternative appeared to be the industry-cum-region basis with different grades of pay, different rates of dearness allowance and different emoluments in different regions. He submitted that the existing arrangements were fall and more reliable.

4.164. There are wide variations in the type of diet taken in various parts of the country. There is a wide divergence in the type of clothing that is worn. The consumption pattern throughout the country is not the same. The nature and quality of work at all places is not the same. The tempo of work is different at different places and is different at different times of the year. The question that has really to be considered is whether there is any principle better than the one laid down by the previous Tribunals for the purpose of classification.

4.165. In paragraph 25 of its report, the Bank Award Commission has observed that in the awards of all-India Tribunals there was a considerable degree of similarity in approach to the problems involved in or arising from the subject matter of adjudication though there have been differences in detail. It has further observed that as regards the basic approach to the problems it was agreed that the existing pattern of banking structure in the country did not permit of the fixation of a single scale of pay for employees of all banks and, therefore, a classification of banks according to their resources (inasmuch as this factor was indicative of concern's capacity to pay) was essential and that the differences in the cost of living in various parts of the country necessitated its division into certain specified areas as it would not be correct to suggest the same scale of emoluments for expensive places like Bombay or Calcutta as for comparatively cheaper centres.

4.166. Apart from the abolition of areas, no alternative basis has been suggested for the purpose of classification of different places in the country. The principle of industry-cum-region basis which has usually been applied by industrial Tribunals is not one which could be applied to an industry like banking where most of the large banks have branches throughout the country. The region-wise approach was considered and dropped by previous Tribunals in dealing with the industry of banking. Being left with no better formula and being faced with the differences in the cost of living and standards of living in different parts of the country, the previous Tribunals had no other alternative left to them but to resort to the classification of areas according to the population. The same difficulty again presents itself before me.

4.167. I will first consider whether there is any case made out for a complete abolition of the areawise classification. The existence of anomalies to which pointed reference has been made by various representatives of the employees, do not by themselves create a case for abolition of this classification, unless the anomalies pointed out are found to be in existence on a large scale. As against the anomalies pointed out on behalf of the employees showing that the cost of living in several places in Class IV area or Class III area is higher than the cost of living in places falling within the higher areas, there would be greater anomalies which could be pointed out if the areawise classification was abolished and one common standard of wages was fixed. Even as regards cities, nobody, for instance, can say that the cost of living and the standard of living at Rajkot is the same as the standard of living and the cost of living at Bombay or Calcutta or that the cost of living or the standard of living in a large number of towns in South India is the same as in North India. By and large, the classification of the country into areas has resulted in producing fewer anomalies than those it is intended to avoid. When in the application of a rule anomalies exist, these anomalies, to the extent that it is possible, should be removed and exceptions to the rule may be provided for. The anomalies pointed out on behalf of the employees relate mainly to the capitals of the newly-formed States, the newly developed industrial towns and townships, hill stations, summer resorts, places within the project areas and places very near to large cities which are well-connected by road and rail to such large cities. In respect of these places, the situation can well be met by upgrading these places and putting them in a higher category. Places in which there is scarcity of housing may be provided for by a special house rent allowance; places where there is scarcity of water may be provided for by a water scarcity allowance, places which are extremely cold may be provided for by an allowance in the shape of fuel allowance and hill stations may be provided for by a hill allowance. If from this angle the matter is tackled then in the present situation of the country and in the present state of availability of evidence on the subject, the best solution to the problem which has been forcefully brought to my notice can be found. As regards the industry of banking, I am really concerned only with those places where banks have branches or where they may be expected to open branches. There are about 1200 places where the banks which are effectively before me have their branches. No reliable material was available in connection with these places which could be placed before me and which would have enabled me to classify these places having regard to the cost of living and the standard of living and the pattern of consumption at these places. In fact, I desired the parties more than once to place such material before me, but no agreed material could be secured and no reliable material could be produced. If such material had been available, the matter could have been dealt with differently than by what is sometimes called 'a blind application of an abstract formula'. The application of such formula could then have been confined only to places where branches may be opened by banks in future.

4.168. As regards Area I, it includes cities with a population of 12 lakhs and more. No serious attempt has been made for the exclusion of any city at present falling in this area. It was strongly urged that the City of Hyderabad should be included in Area I. For the purpose of the current Census the area covered by Hyderabad includes the areas falling within Hyderabad Municipal Corporation limits, Secunderabad, Secunderabad Cantonment and outlying urban units being University Area, Malkajgiri, Alwal, Zamistapur, Attapur, Fathenagar, Bowenpalli, Lalaguda, Kandikal and Machabolimurum. I see no reason why these areas should not be included for the purpose of considering the population of Hyderabad for the purpose of determining the area in which that City should fall. The provisional official 1961 Census population figure for that City is 12,52,337. Hyderabad is now the capital of the enlarged State of Andhra Pradesh and has acquired a

special significance by reason thereof. In my view, Hyderabad including the places mentioned above should be placed in Area I and I direct accordingly.

4.169. A claim has been made that the City of Bangalore should also be included in Area I. It was pointed out that the population of Metropolitan Bangalore, comprising (a) areas falling within the Bangalore Corporation limits (b) area notified under the Bangalore City Improvement Trust Board Act, excluding Satellite townships and (c) Satellite towns within the Trust Board area, is already above 12 lakhs according to the provisional official population figures of 1961 Census. Bangalore is now the capital of the enlarged State of Mysore. It is a highly developed industrial area and it would be in the fitness of things if the City of Bangalore including the areas mentioned above is also included in Area I, and I direct accordingly. The case of other places having a population of less than 12 lakhs for inclusion in this area has been separately dealt with later.

4.170. As regards Area II, it would comprise all cities and towns other than those included in Area I, having a population of one lakh and above but below 12 lakhs according to the 1961 population Census figures. The case of some places with a population of less than one lakh for inclusion in this Area has been separately dealt with later.

4.171. Then comes the important question relating to Area III. Arguments at considerable length have been advanced in respect of the limits of population for this area. Under the award of the Sastry Tribunal, all places other than those comprised in Class I area and Class II area have been included in Area III. Government desired that out of this Area III should be carved out Area IV comprising places with a population of 30,000 and under. In fact, the Central Government made an application before the Labour Appellate Tribunal for being joined as a party and for being heard in support of the application that banks in rural and semi-urban areas having a population of and below 30,000 should be excluded from the scope of the award for a period of two years in the case of existing branches and offices and for a period of four years in the case of new ones. Government relied upon the report of the Rural Banking Enquiry Committee, which had recommended an exemption of places having a population of 50,000 and below from the operation of the awards of Industrial Tribunals. On a preliminary objection being raised by the counsel for the employees that such an application did not lie as none of the banks had raised the issue directly by their appeals, the application was not entertained for technical reasons. Government thereafter issued the modification order dated 24th August 1954.

4.172. I shall first proceed to consider whether it is necessary to retain Area IV. No doubt, there are a large number of places in the country with a population of 30,000 and below, but the commercial banks by and large do not operate in a majority of these places. The commercial banks run their business primarily from the profit motive. It is sometimes felt that the smaller banks would play a useful role in catering to these smaller areas. I have whilst dealing with the question of classification of banks dealt with the handicaps under which the small banks suffer. The Rural Banking Enquiry Committee in its report recommended that banks functioning in places with a population of less than 50,000 should be exempted from the operation of all awards as also from the provisions of the Shops and Establishments Acts. It was soon realised that the development of rural banking could not be left to pure private enterprise. When Area IV was created, it was done with a view to provide an incentive to banks to operate in this area. When one looks, however, to the number of branches which have been opened by the commercial banks in Area IV (other than the State Bank of India and its Subsidiaries) before this incentive was offered and after the offering of this incentive, one finds that there is hardly any market improvement in the percentage of branches opened by large commercial banks in this area. The Indian Banks Association has filed statements before me showing the branches opened and closed by 12 A Class banks whom the Association represents between the years 1947 to 1953 and the years 1954 to 1960. Between 1947 to 1953 these 12 banks opened in all 114 branches and closed 49 branches in Area IV, whilst between 1954 to 1960 (upto November 1960) the number of branches opened by them were 105 and the number of branches closed by them during that period were 39. These figures show that the inducement offered by the creation of Area IV and the lower scales fixed for workmen for this area have not resulted in furnishing any appreciable incentive to these large commercial banks in opening branches in Area IV and that the expectations entertained at the time of the creation of Area IV have not been realised. The particulars in connection with these banks years-wise are as under:—

Statement showing the number of branches opened and closed in area IV by 12 'A' Class banks during 1947 to 1953 and 1954 to 1960.

S. No.	Name of the Bank	Number of branches opened									Number of branches closed.							
		1947	1948	1949	1950	1951	1952	1953	Total	1947	1948	1949	1950	1951	1952	1953	Total	
1.	Central Bank of India	..	..	..	4	2	1	4	11	..	..	..	2	..	..	..	2
2.	Punjab National Bank	2	22	12	4	24	..	4	68	..	2	14	2	5	1	1	25	
3.	Bank of India	..	..	..	..	..	..	1	1	..	..	..	..	..	..	..	..
4.	United Commercial Bank	2	7	..	..	1	..	..	10	..	..	2	1	2	1	..	6
5.	Bank of Baroda	2	..	1	..	..	..	..	3	..	..	..	..	..	1	1	2
6.	United Bank of India (Established in 1950)	..	..	..	..	..	1	..	1	..	..	..	..	2	..	..	2
7.	Allahabad Bank	..	1	1	3	..	1	..	6	..	..	..	..	..	..	2	2
8.	Indian Bank	..	..	..	..	..	..	2	2	..	..	3	..	..	..	..	3
9.	Devakaran Nanjee Banking Co.	..	2	1	1	1	1	..	6	..	..	..	..	..	..	..	..
10.	Union Bank of India	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
11.	Indian Overseas Bank	2	1	1	..	..	..	..	4	..	..	4	1	..	..	..	5
12.	Canara Bank	..	..	..	..	..	..	2	2	1	..	1	..	..	..	..	2
TOTAL		8	33	16	12	28	4	13	114	1	2	24	6	9	3	4	49	

S. No.	Name of the Bank.	Number of branches opened.								Number of branches closed.							
		1954	1955	1956	1957	1958	1959	1960	Total	1954	1955	1956	1957	1958	1959	1960	Total
1.	Central Bank of India	1	1	..	..	..	2	1	5	..	3	14	8	2	2	..	29
2.	Punjab National Bank	7	7	7	8	2	13	2	46	..	..	1	..	..	1	1	3
3.	Bank of India . . . . .	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
4.	United Commercial Bank . . . .	..	..	1	2	2	3	1	9	..	..	..	..	..	..	..	..
5.	Bank of Baroda . . . . .	..	1	1	1	1	3	..	7	..	..	..	2	..	..	..	2
6.	United Bank of India . . . . .	..	..	..	2	4	..	1	7	..	..	..	..	..	..	..	..
7.	Allahabad Bank . . . . .	..	..	..	..	..	..	..	..	1	1	2	..	..	..	..	4
8.	Indian Bank	4	2	1	..	5	2	1	15	..	..	..	..	..	..	..	..
9.	Devkaran Nanjee Banking Co. . . .	..	..	..	1	2	1	6	10	..	..	..	..	..	..	..	..
10.	Union Bank of India . . . . .	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
11.	Indian Overseas Bank	1	..	1	..	1	..	1	4	..	..	..	1	..	..	..	1
12.	Canara Bank . . . . .	..	1	..	1	..	..	..	2	..	..	..	..	..	..	..	..
TOTAL		13	12	11	15	17	24	13	105	1	4	17	11	2	3	1	39

4.173. As regards the banks in Class B represented by the Indian Banks Association other than the 8 Subsidiaries of the State Bank of India, the figures show that three such banks opened in all between 1947 and 1953. 27 branches in Area IV and closed 17 branches in Area IV during that period. Between 1954 and 1960 these three banks opened in all 30 branches in Area IV. As regards 12 C Class banks represented by the Indian Banks Association between 1947 and 1953 these banks opened 21 branches in Area IV and closed 23 branches during that period. The largest number of banks have been closed by the Hindustan Commercial Bank Limited which accounted for the closure of 14 such branches. Between 1954 and 1960 these banks opened 35 branches in all and closed 4 branches. There might be various factors which might have contributed to the opening of branches in Area IV by these banks but even if the only factor which has caused these banks to open branches in Area IV after the creation of that Area by the modifications made by Government was the inducement provided by the lower scale of wages, even then there has been no such appreciable change as would warrant the retention of Area IV because of any inducement which lower wages for this area might offer to the banks to operate in this area. This position has been increasingly realised by the Government and the main burden of opening branches in Area IV is now being shouldered by the State Bank of India and its Subsidiaries. I shall consider the case of these banks separately in connection with the retention of Area IV. As regards D Class banks the basic wages and dearness allowance payable to members of the clerical staff and the subordinate staff in Area IV are the same as in Area III.

4.174. So far as the commercial banks (other than the State Bank of India and its Subsidiaries) are concerned, there is no case for retention of Area IV. The number of employees in branches in Area IV is comparatively small. The Indian Banks Association has filed a statement showing the number of banking offices (including Head Office) and the number of employees (clerical and subordinate staff) employed therein areawise of its member banks as on 31st December 1959. It shows that its 37 member banks had 451 offices in Area I, 641 offices in Area II, 623 offices in Area III and 703 offices in Area IV. The 703 offices in Area IV consisted of 320 offices of A Class banks, 262 offices of B Class banks and 121 offices of C Class banks. The statement further shows that out of 49962 employees employed in all areas, 5924 employees (3322 clerks and 2602 members of the subordinate staff) were employed in Area IV. The amount of saving made by commercial banks by paying less to their employees in these branches in Area IV is not such as would induce them to open more branches in this area. When new branches have to be opened, experienced employees have to be sent for the purpose of manning those branches. There is considerable discontent among the employees of the banks in connection with the economic detriment which they suffer when they are transferred to branches in lower areas. A strong complaint has been made that apart from the hardship which they have to undergo by reason of such transfers owing to inadequate social amenities and inadequate educational and medical facilities etc., they have to suffer an economic detriment and that this gives rise to a feeling that these transfers operate by way of penalty. The workmen as a rule have been opposed to such transfers and the State Bank of India had to provide additional benefits to supplement the provisions of the Sastry Award as modified in order to minimise the hardships inherent in the scheme of transfer from a higher to a lower area.

4.175. One of the grounds urged in support of the creation of Area IV was that those who were recruited from that area were persons who had other sources from which they could supplement their income. I do not think that it is right that the other sources of income of persons who may be employed in a bank should be taken into account when a Tribunal is called upon to fix the scales of pay for employees of banks.

4.176. On behalf of the Exchange Banks it was submitted that almost the overwhelming bulk of their business was in Area I, that they had very little business in Area II and had negligible business in Area III. A statement was submitted on behalf of these banks which shows that only one Exchange Bank has a branch at Gandhidham (Area IV) which has been upgraded to Area III. Thus these banks have no problem so far as Area IV is concerned. There are several C and D Class banks which have branches in Area IV. The extent of their operation is not very large and the number of employees employed in this

area is not large. A large number of the branches of these banks at places in Area IV existed before Area IV was demarcated.

4.177. Having considered all aspects of the matter, in my view there is no necessity for the retention of Area IV so far as the commercial banks other than the State Bank of India and its Subsidiaries are concerned.

4.178. I shall next deal with the case of the State Bank of India and its subsidiaries in this connection. Shri Sachin Chaudhary, who appeared for the State Bank of India made a forceful submission for the retention of Area IV. He stated that the State Bank of India was charged within the function of opening new branches and that it had taken upon itself the burden of opening not less than 400 branches within a period of 5 years. On 31st December, 1959 it had in the clerical grade 4039 employees employed in 37 branches in Area I, 4008 employees employed in 105 branches in Area II, 3214 employees employed in 201 branches in Area III and 2517 employees employed in 480 branches in Area IV making in all 13,778 employees in 823 branches. On the same day in the subordinate grade it had 1442 employees in Area I, 1729 employees in Area II, 1832 employees in Area III and 1748 employees in Area IV making a total of 6751. Thus out of a total number of 20,529 employees, 4265 were employed in Area IV. Between 1st July, 1955 and 30th June 1960 the State Bank of India has opened 327 branches in Area IV and 75 branches in Area III. As on 30th September, 1961, the State Bank of India had 34 branches in Area I, 100 branches in Area II, 194 branches in Area III and 461 branches in Area IV. According to the State Bank of India, 298 branches in Area IV and 55 branches in Area III opened as aforesaid upto 30th June, 1960 were working at a loss. There is no doubt that the State Bank of India has a large number of employees employed in Area IV and is doing considerable pioneering work. It has to fulfil the national policy for the development of banking in semi-urban and rural areas as other commercial banks were not able to satisfy that want. The major burden in this connection has fallen on the State Bank of India and its Subsidiaries and on the Co-operative banks. The question that I have to consider is whether this pioneering work should be done at the expense of the workmen. For the purpose of opening of new branches and running them in a manner as would inspire confidence, it is necessary that some old experienced hands must be sent for the purpose of starting and running these branches. It would not be fair to such old employees who have considerable experience of the business of banking that they should suffer economic detriment apart from the other inconveniences and hardships which they may have to undergo on being transferred to such areas. The economic stagnation for a number of years gives rise to discontent. To meet the realities of the situation the State Bank had voluntarily to give certain additional benefits to the workmen.

4.179. Section 36 of the State Bank of India Act, 1955, provides for the creation of the Integration and Development Fund. The said fund is made up of the dividends payable to the Reserve Bank on such shares of the State Bank held by it as do not exceed fiftyfive per cent of the total issued capital and such contribution as the Reserve Bank or the Central Government may make from time to time. The said Fund is required to be applied exclusively for meeting:—

- (1) losses in excess of such yearly sum as may be agreed upon between the Reserve Bank and the State Bank and attributable to the branches established in pursuance of sub-section (5) of section 16, which lays down that not less than 400 new branches were required to be opened by the State Bank within five years of the date when the Act came into force or such extended period as the Central Government may specify in that behalf.
- (2) subsidies granted by the State Bank to a subsidiary bank with the approval of the Reserve Bank, and
- (3) such other losses or expenditure as may be approved by the Central Government in consultation with the Reserve Bank.

In spite of the opening of numerous new branches by the State Bank of India, this Integration and Development Fund is swelling up. The position of the

Integration and Development Fund as at 30th November, 1960 as given by the State Bank of India is as under:—

Year	Amount credited		Amount with- drawn.		Balance.
	Rs.		Rs.		Rs.
1956	.	.	24,75,000	..	24,75,000
1957	.	.	49,50,000	..	74,25,000
1958	.	.	74,25,000	..	1,48,50,000
1959	.	.	55,68,750	35,31,909	1,68,86,841
1960	.	.	61,87,500	32,94,654	1,97,79,687
TOTAL		2,66,06,250	68,26,563		1,97,79,687

The whole of this Integration Fund has been built up out of the dividend income. The only amounts withdrawn from this fund were Rs. 35,31,909 in the year 1959 in respect of the losses incurred for the year 1957 amounting to Rs. 8,94,821 and the losses incurred for the year 1958 amounting to Rs. 26,37,088 and the sum of Rs. 32,94,654 in the year 1960 in respect of the losses incurred for the year 1959 on account of new branches. The State Bank of India has tried to show that various branches in Area IV have incurred losses.

It is found from the statement furnished by the State Bank of India itself that out of 8 new branches opened by it in Area I during 1st July, 1955 to 30th June, 1960, 5 have made losses and 3 only have made profits, that out of 6 branches opened during the said period in Area II, 5 have made losses and only 1 has made profit, that out of the 75 branches opened during this period in Area III, 55 branches have made losses and only 20 have made profits and that out of 327 branches opened in Area IV, 298 branches have made losses and only 29 branches have made profits.

4.180. When branches have been newly opened, they may incur losses for some time. What may be considered is whether after the branches get established for some time they are likely to make profits or losses. The State Bank of India has opened several new branches at places where the Government had previously pay offices and treasury pay offices. The non-workmen staff of the State Bank of India is not paid any lower salary by reason of the fact that such staff is employed in a lower area. The lesser scales of pay are claimed only in respect of workmen employed in the lower area. In spite of the opening of numerous branches and the losses sustained therein the State Bank of India has been making progressively larger profits year by year. Its net profits for the year 1955 amounted to Rs. 1,35,93,000/- for the year 1956 amounted to Rs. 1,56,18,000/- for the year 1957, amounted to Rs. 1,87,56,000/-, for the year 1958 amounted to Rs. 1,90,14,000/-, for the year 1959 amounted to Rs. 1,87,10,000/- and for the year 1960 amounted to Rs. 2,17,59,000/-. In view of the sound financial condition of the bank, there is no reason why the bank should pay low wages in Area IV. The new branches have been opened *inter alia* with a view to facilitate Government business, with a view to providing banking facilities to fast developing areas, with a view to develop rural economy and with a view to secure deposits and to mop up the resources or the countryside in the larger interest of the nation. The Chairman of the State Bank of India in his speech at the 6th annual general meeting of the shareholders held at Bombay has, in connection with the policy underlying the opening of branches, stated as under:—

"The banking system must continuously play an active role in the overall mobilisation of resources. For this purpose it is necessary that new techniques be employed from time to time. Hitherto, banks have depended more on urban areas and industrial and commercial centres for collection of deposits. I feel that the possibilities of securing more deposits from rural and semi-urban areas should now be explored with vigour. Up to the end of 1960, we have opened 429 branches mostly in the rural and semi-urban areas of the country. The total deposits at these branches have increased from Rs. 29.32

crores in 1959 to Rs. 37.03 crores in 1960; and the average deposits per new branch have risen from Rs. 8.17 lakhs to Rs. 8.63 lakhs. I feel, however, that there is still considerable scope for increasing bank deposits in these areas."

There is no evidence led before me to show that the branches in Area IV are perennially to make losses. When these uneconomic branches are opened in the larger interests of the national economy of the country during the five year plan periods, the workmen's interests have also to be looked at. The Directive Principles of State Policy require that the wages of workmen cannot be very low. The State Bank of India is yielding enormous profits and special areas cannot be maintained for long where it can pay low wages. The creation of Area IV has given rise to considerable discontent and has agitated the minds of workmen to a considerable extent. The workmen of the State Bank of India even at the interim relief stage sought the abolition of Area IV by way of what they termed "Interim relief". In my view, it is necessary in the larger interests of the country for securing peace in the industry and doing justice to the claims of the workmen, that Area IV should not be retained so far as the State Bank of India is concerned.

4.181. As regards the eight Subsidiaries of the State Bank of India, they have a large number of offices in Area IV. Out of the 506 offices of these banks, 325 are in Area IV, 79 are in Area III, 77 are in Area II and 25 are in Area I, as at the end of 30th June 1961. There is no area-wise classification so far as the State Bank of Saurashtra and the State Bank of Patiala are concerned and the same scales of pay etc. are applicable to employees at places falling in Area III and in Area IV. As regards the State Bank of Bikaner, as a result of an agreement arrived at with the employees' representatives before the Bank Award Commission, the dearness allowance paid to the employees in Area IV is at the same rate as in Area III. Four of its branches situate at Abohar, Ratangarh, Sardarshahr and Sujangarh which fall in Area IV have been upgraded to Area III. As regards the State Bank of Mysore, in the case of clerical staff (inclusive of cash department staff) in Area III and IV basic pay scale of Area II has been extended, while dearness allowance to clerical staff in Areas I, II and III is being paid in terms of the Award, separate scales of dearness allowance have been provided for them in Area IV. The State Bank of Indore also has granted certain improvements to employees in class IV Areas. According to the recommendations of the Sub-Committee for the expansion of branches appointed by the State Bank of India, the Subsidiary banks have to join the State Bank of India in opening 300 new branches at places to be selected from rural and semi-urban areas. Out of the 325 branches of the Subsidiaries of the State Bank of India in Area IV, 44 branches have been opened in the year 1960. Some of these branches are likely to make losses. It is difficult to provide for the development of banking in rural areas at the expense of the workmen. According to the calculations made by the State Bank Subsidiaries regarding the estimated extra annual burden, if Area IV is upgraded to Area III, in respect of the employees employed on 30th April 1961, the State Bank of Indore would be required to pay an extra sum of Rs. 13,416, the State Bank of Jaipur would be required to pay an extra sum of Rs. 38,772, the State Bank of Mysore would be required to pay an extra sum of Rs. 42,060, the State Bank of Travancore would be required to pay an extra sum of Rs. 14,964 and the State Bank of Hyderabad would be required to pay an extra sum of Rs. 1,89,876 apart from the consequential increases in the retirement benefits and overtime. These figures have been arrived at on calculations which may not be very strictly accurate. I am, however, proceeding on the basis that they are correct. The establishment charges of the State Bank of Hyderabad were Rs. 32,20,000 in the year 1958, Rs. 38,91,000 in the year 1959 and Rs. 41,34,000 in the year 1960. The net profits of the bank were Rs. 3,50,000 for the year 1958, Rs. 5,00,000 for the year 1959 and Rs. 9,14,719 for the year 1960. As regards the State Bank of Bikaner, the establishment charges of the bank for the years 1958, 1959 and 1960 were respectively Rs. 28,86,000, Rs. 38,61,000 and Rs. 31,19,000. For the year 1958 the Bank made a net profit of Rs. 9,02,000. For the year 1959 there was a net loss of Rs. 2,96,000 having regard to the fact that provision of Rs. 8,50,000 had been made out of the profits for gratuity to the staff. For the year 1960, there was a net profit of Rs. 2,11,647. As regards the State Bank of Indore its establishment charges for the year 1958 were Rs. 10,93,000, for the year 1959 were Rs. 13,00,000 and for the year 1960 were Rs. 13,48,681. Its net profits for the years 1958, 1959 and 1960 were Rs. 4,95,000, Rs. 5,27,000 and Rs. 7,12,560 respectively. As regards the State Bank of Jaipur, its establishment charges for the years 1958, 1959 and 1960 were Rs. 19,22,000, Rs. 20,49,000 and Rs. 22,62,464 respectively. Its net profits for the year 1958 were Rs. 7,67,000.

In the year 1959, the bank made a net loss of Rs. 10,48,000 and in the year 1960 the bank made a net profit of Rs. 99,841. As regards the State Bank of Mysore, its establishment charges for the years 1958, 1959 and 1960 were Rs. 24,57,000, Rs. 27,40,000 and Rs. 24,16,040 respectively. Its net profit for the year 1958 was Rs. 22,58,000, for the year 1959 was Rs. 23,65,000 and for the year 1960 was Rs. 28,05,442. As regards the State Bank of Patiala its establishment charges were Rs. 14,74,000 in the year 1958, Rs. 15,25,000 in the year 1959 and Rs. 11,82,783 in the year 1960. Its net profits for the year 1958 were Rs. 10,00,000, for the year 1959 were Rs. 7,96,000 and for the year 1960 were Rs. 2,91,819 (for 9 months only i.e. 1-4-1960 to 31-12-1960). As regards the State Bank of Saurashtra, its establishment charges for the years 1958, 1959 and 1960 were Rs. 14,89,000, Rs. 16,61,000 and Rs. 12,14,005 respectively. In the year 1958, the Bank made a net profit of Rs. 16,29,000, in the year 1959 the bank made a net profit of Rs. 17,83,000 and in the year 1960 the bank made a net profit of Rs. 9,76,381 (for 8 months 1-5-1960 to 31-12-1960). As regards the State Bank of Travancore, the establishment charges of the Bank for the years 1958, 1959 and 1960 were Rs. 8,54,000, Rs. 9,13,000 and Rs. 10,51,803 respectively. The bank made a net profit of Rs. 10,24,000 for the year 1958, Rs. 9,95,000 for the year 1959 and Rs. 13,53,364 for the year 1960. On shares of the State Bank of Mysore and 75.84 per cent shares of the State Bank of Hyderabad, the State Bank of Patiala and the State Bank of Saurashtra, 96.70 per cent shares of the State Bank of Bikaner, 82.82 per cent shares of the State Bank of Indore, 88.11 per cent shares of the State Bank of Jaipur, 62.27 per cent shares of the State Bank of Mysore and 75.84 per cent shares of the State Bank of Travancore. In connection with some of these banks the percentage is likely to be reduced as claims from all the shareholders of the pre-existing corresponding banks had not been received.

4.182. The Subsidiaries of the State Bank of India can bear the additional burden imposed by the abolition of Area IV. The Government has very wisely constituted the Integration and Development Fund for meeting the losses which these banks may suffer in opening branches in semi-urban and rural areas in the larger interest of the nation. The State Bank of Hyderabad is even at present conferring larger benefits than those provided in the Sastry Award to employees who are transferred from a higher area to a lower area. Whereas the award provides that in case of transfer from a higher area to a lower area basic pay of the employee concerned should be protected, but allowances such as dearness and house rent should be reduced in accordance with the scale applicable to the lower area, the management agreed to protect the basic salary and all allowances drawn by the employees while at higher area, for the first 12 months of their posting to lower area and thereafter to pay compensatory allowance to cover the difference until it is wiped off in due course by the increments earned in future.

4.183. Some of the reasons given for the abolition of Area IV in connection with the State Bank of India equally apply to its Subsidiaries. Taking every circumstance into account, I am of the view that these banks should also fall in line with the remaining banks in the country in connection with Area IV. In my view, Area IV needs to be abolished.

4.184. The difference in the total remuneration payable by A, B and C Class banks under the Sastry Award as modified to the clerical staff and the members of the subordinate staff in Area III and in Area IV is very large. At the all-India working class consumer price index No. 123 (Base 1949=100) an A Class bank pays in the 1st year of service to a member of the clerical staff in Area III Rs. 127.25, whilst in Area IV it pays Rs. 99.90. The corresponding figures for a B Class bank are in Area III Rs. 120.25 and Area IV Rs. 90.90. The corresponding figures for a C Class bank are in Area III Rs. 114.25 and in Area IV Rs. 87.90. As regards members of the subordinate staff the corresponding figures for A Class banks are in Area III Rs. 80.87 and in Area IV Rs. 65.25; for B Class banks are in Area III Rs. 75.75 and in Area IV Rs. 57; and for C Class banks are in Area III Rs. 70.62 and in Area IV Rs. 42.50. The difference will be further accentuated if the total remuneration payable under my award in Area III is considered. If Area IV is abolished at once there will be a sudden steep increase in the total remuneration of workmen at present employed in Area IV. It is desirable that the change should be gradual. It is further desirable that in the same place the total remuneration payable to a workmen should not differ having regard to the fact whether a bank has opened a branch after my award or before my award comes into force. Accordingly I am providing for a short transitional period during which progressively higher wages will be paid in Area IV until they come in level with those paid in Area III and Area IV will cease to exist.

4.185. I will next consider whether any place which would by reason of its population fall in a lower area should, by reason of the peculiar conditions prevailing in that place, be upgraded so as to be deemed to fall in a higher area. It is urged that the cost of living and the standard of life prevailing in places which are State capitals, hill stations, summer resorts, project areas, newly developed industrial townships and places in the vicinity of large cities are very much higher than at other places falling in the same Area. It is urged that if the areawise classification is to be retained then these places need to be upgraded. The aforesaid argument applied to a number of places which fall within the present Area IV and some of these places would be required to be upgraded if Area IV was to be the normal feature of the wage structure. As I have already pointed out, there has been a considerable difference in the total remuneration at present drawn by workmen in Area IV and by workmen in Area III. It is this largeness of the difference which has contributed to the great depth of feeling behind the arguments advanced in this connection. On the abolition of Area IV, all places falling within Area IV will get upgraded and would fall in Area III, though in view of the great disparity in the remuneration, a short time will elapse before the remuneration payable in Area III will apply. There are, however, some places in Area IV which, it is claimed, should be upgraded even above the level of Area III. There is a place called Uttarpara which is about six miles from Calcutta. The same falls within the Calcutta industrial belt. The United Bank of India Limited and the United Commercial Bank Limited have treated this place as if it fell within Area I. Having regard to the location of this place and other circumstances, it is but fair that this place should be regarded as falling within Area I, and I direct accordingly.

4.186. There was a demand made that Bhivandi, Dombivli and Pimpri which are at present in Area IV, should be upgraded to Area II, having regard to the local conditions prevailing at Bhivandi, Dombivli and Pimpri. Bhivandi is on the Bombay Agra road and is not far away from either Kalyan or Thana whose cases I am going to deal with separately. The State Bank of India has treated Bhivandi as if it fell within Area II. Dombivli is a few miles away from Kalyan. The Canara Bank Limited has treated Dombivli as if it fell in Area II. Pimpri is an industrial centre near Poona and the United Commercial Bank Limited has treated this place as if it fell within Area II. It is but fair that all these three places, having regard to their special circumstances, should be treated as falling within Area II, and I direct accordingly.

4.187. There are two places in Area III which it is claimed, should be placed in Area I. They are Kalyan and Thana. Accordingly to the latest census figures, the population of Thana has crossed the limit of one lac and would, apart from any other circumstance, be regarded as falling in Area II. Both Kalyan and Thana are on the outskirts of Greater Bombay. Local trains run frequently from Bombay to Thana and Bombay to Kalyan. Both are industrial centres. The State Bank of India has treated these places as if they fell in Area I. Having regard to the peculiar circumstances in connection with these two places, it is but just that these two places should be regarded as falling within Area I, and I direct accordingly.

4.188. There are various places in Area III which, by reason of the peculiar position occupied by those places, are required by workmen to be upgraded as if those places fell in Area II. A claim has been made that Chandigarh, Chandernagore, Chinsurah, Cochin, Ferozepore, Kakinada, Nasik, Pondicherry, Raipur, Shillong, Tirunelveli, Tuticorin should be deemed to fall within Area II. Kakinada, Nasik, Raipur and Tuticorin have, according to the latest provisional official Census figures, a population exceeding one lac and would fall within Area II. The State Bank of India has treated all these places, barring Chandigarh, as falling within Area II. Chandigarh is the capital of the East Punjab State. The Punjab National Bank Limited has treated Chandigarh as if it fell within Area II. Having regard to the peculiar conditions prevailing at each of these places, it is but fair that all these places should be regarded as falling within Area II, and I direct accordingly.

4.189. Under this award (I) Area I will comprise (1) City of Bombay including Greater Bombay, (2) City of Calcutta including Howrah, Barrackpore, Behala, Alipore, Cossipur, Garden Reach, Baranagore, Tollygunge, South Suburban Municipal Area and Dum Dum, (3) City of Delhi including the New and Old Delhi and Delhi Shahdara (4) City of Madras (5) City of Ahmedabad, (6) City of Hyderabad comprising areas falling within the Hyderabad Municipal Corporation

limits, Secunderabad, Secunderabad Cantonment and outlying urban units being University Area, Malkajgiri, Alwal, Zamistapur, Attapur, Fathenagar, Bowenpalli, Lalaguda, Kandikal and Machaboliurum, (7) Bangalore comprising areas falling within the Bangalore Corporation limits, area notified under the Bangalore City Improvement Trust Board Act, excluding satellite townships and satellite towns within the Trust Board area, (8) Kalyan, (9) Thana, and (10) Uttarpur and all places which may have a population of more than twelve lacs.

(II) Area II will comprise all cities other than those included in Area I which have a population of one lac or more, and Bhivandi, Chandernagore, Chandigarh, Chinsurah, Cochin, Dombivli, Ferozepore, Kakinada, Nasik, Pimpri, Pondicherry, Raipur, Shillong, Tirunelveli and Tuticorin.

(III) Area III will comprise all places not already included in Area I and Area II.

4.190. For the purpose of the classification of areas, only the latest available all India Census figures should be taken into account. A similar direction was given by the previous Tribunals and it seems to me to be a salutary direction. Until the final official population figures of the latest 1961 census are available, provisional figures as officially published should be adopted.

CHAPTER V

Item No. 2: SCALES OF PAY; METHOD OF ADJUSTMENT IN THE SCALES OF PAY;

AND

Item No. 3: DEARNESS ALLOWANCE WITH PARTICULAR REFERENCE TO THE QUESTION WHETHER ANY PART OF THE EXISTING DEARNESS ALLOWANCE SHOULD BE ABSORBED IN THE BASIC PAY.

Scales of pay

(i) General

5.1. The Sen Tribunal considered it desirable that the basic pay should represent as large a part of the total emoluments as possible and should be fixed at a point below which the cost of living is not expected to fall in the near or foreseeable future and that at the lowest level, the basic wage should be supplemented by dearness allowance ensuring a fair degree of neutralisation of the increase in the cost of living. For this purpose, the Sen Tribunal selected 1944 as the base year. The Sen Tribunal saw great merit in adopting that year as the base year *inter alia* because the Central Government was then publishing the cost of living index series for 15 towns in different parts of India treating 1944 as the base year and as for the seven towns of Bombay, Ahmedabad, Sholapur, Jalgaon, Kanpur, Nagpur and Madras it had been publishing an index series with August 1939 as the base which could without difficulty be converted to the base year 1944. The Sen Tribunal relied upon the results of Shri Subramaniam's investigations into the budgets of the middle class employees of the Central Government for the period November 1945 to August 1946 while considering the question of (1) consumption units, (2) the difference in cost of living in different areas and (3) the minimum requirements of a lower middle class family. It came to the conclusion that the figures of actual expenditure given by Shri Subramaniam could be used as a basis for arriving at the subsistence level of wages. The monthly requirements of a lower middle class employee for Bombay, Calcutta and Delhi were worked out at Rs. 40 per consumption unit or Rs. 90 for 2.25 consumption units in 1946. The requirements of a lower middle class employee in Class II areas represented by Sholapur, Kanpur, Nagpur and Jamshedpur, were worked out at Rs. 34 per consumption unit and Rs. 77 for 2.25 consumption units in 1946. About Class III areas the Sen Tribunal observed that they comprised very large tracts and since calculations similar to those made in case of Areas I and II were not likely to yield satisfactory results, it assumed a minimum of Rs. 65 per month as representing the requirements of a clerk in such Areas for the year 1946. The Tribunal started with the requirements of 2.25 consumption units in the first year of service of an employee, and went up to the requirements of 4 consumption units in the 25th year of service, in arriving at the figures of minimum requirements of a clerk

in 1946. After reducing these to the level of 1944, it concluded that the following were the figures of monthly requirements of a clerk in a "C" class bank (working funds below 7½ crores) in 1944:—

Class of Area	First Year	25th Year
Class I Areas	86	265
Class II Areas	73	225
Class III Areas	62	191

Working on the basis of these figures as the foundation and using the differentials which were fixed by it the wage scales for A, B and C Classes of banks in Areas I, II and III were ultimately built up by the Sen Tribunal after observing the principles that increments should normally show a rising trend and that a time scale should provide for a saving wage after the fifteenth year of service. The peculiarity of Sen Tribunal's wage scales is that there is a base year i.e. 1944 and the dearness allowance is linked to the local indices converted to 1944=100. It was due to this linking of dearness allowance with local indices, that appreciable differences in pay of the clerks in various places subsequently became apparent and resulted in considerable dissatisfaction amongst the bank employees. In connection with wage scales of the subordinate staff, the Sen Tribunal relied mainly upon the figures in Shri Deshpande's reports which were in respect of family budgets of industrial workers in different parts of India and came to the conclusion that the minimum requirements per month for a new entrant on the basis of 2.25 consumption units in Class C banks in Class I area would come to Rs. 52, in Class II area would come to Rs. 43 and in Class III area would come to Rs. 35. As regards Class B banks the requirements in Class I, Class II and Class III areas were found to be Rs. 56, Rs. 46 and Rs. 38 respectively. As regards Class A banks the requirements in Class I, Class II and Class III areas were found to be Rs. 60, Rs. 49 and Rs. 40 respectively.

5.2. The Sastry Tribunal reviewed the approach of the Sen Tribunal in connection with the fixation of wage scales and came to the conclusion that it should devise a more direct approach, a simpler method and a more acceptable technique, keeping clear of all data which was not statistically established beyond doubt and keeping also in mind the Labour Appellate Tribunal's criticism of Shri Subramaniam's Report and cognate matters. The Sastry Tribunal considered the various aspects of Shri Subramaniam's Report and expressed its doubts about its utility for the purpose of wage fixation for which it was never intended as the objective of the report was to provide a basis for middle class cost of living indices. In its view it was not quite safe to accept that report as representing an accurate picture of the economic conditions and modes of living of the bank workmen. In connection with the question as to what should be the size of a family, the Sastry Tribunal observed that the size of the family of a workman should be taken as consisting of 1.8 consumption units at the initial start and that at the 10th year of his service, it should be regarded that a person has a family consisting of a wife and two children, making a total of 3 consumption units. Dealing more elaborately with the problem of a proper co-efficient, i.e. ratio of the relative costs of living of working class and the middle class employees, it has held that this co-efficient was not more than 66-2/3 per cent as against the co-efficient of 80 per cent originally arrived at by Justice Rajadhyaksha in his award regarding the Posts and Telegraphs Departments of the Central Government. The Sastry Tribunal then considered various other factors relating to wage fixation such as (i) the productivity of labour; (ii) the prevailing rates of wages in the same or similar occupations in the same or neighbouring localities, (iii) the level of national income and its distribution and (iv) the place of the industry in the economy of the country. It made its observations as regards the relevancy or otherwise of those concepts in the context of the peculiar conditions prevailing in the banking industry. It then considered the wage scales awarded by various Tribunals in the past in relation to employees of banks in various States, made a comparative study of the wage scales prevalent at that time in the establishments under the Central and the State Governments, it also took a cross-section of the wage map of India for clerical staff and compared the prevailing rates in a mixed bag consisting of industrial concerns, municipalities, insurance companies, Government departments, port-trusts and the Reserve Bank of India. It also studied the prevailing rates of wages in certain industries which were the result of industrial awards. In conjunction with this the recommendations of

the various committees which had anything to do with the fixation of wages were also taken into account and a detailed survey of the banking industry and its capacity to pay higher wages was made by making an examination of the profit margins, net returns, provision for reserves, etc., having been fully conscious of the fact that all wages and costs must in the last analysis come out of the gross yield of the industry and that the scales were to be adjusted subject to a minimum, to the capacity to pay. It devised 12 scales being the scales in A, B, C and D Classes of banks in Areas I, II, III. The basic pay under these scales was less than the basic pay in the Sen scales of pay and three more scales of pay were added due to the creation of D Class banks in view of the recommendations of the Rural Banking Enquiry Committee and the nature of the work in rural areas.

5.3. The Sastry Tribunal has considered in detail the position of the Index Numbers which were being published in the country at the time of its deliberations and decided that in the circumstances prevailing at that time, the fixed percentage method with a minimum was eminently suitable for the fixation of dearness allowance in the banking industry for the members of the clerical staff and that the flat rate system was suitable for a similar purpose for members of the subordinate staff. As regards the adjustment of the dearness allowance for future half years commencing from July 1953 to December 1953 onwards the Tribunal considered it proper to link the dearness allowance to the rise or fall in the all-India working class cost of living index figure 144 (base 1944=100). The Labour Appellate Tribunal felt that no bank clerk should receive less than a wage which would not only provide him with bare necessities of life but also give him at least a small measure of comfort, and considered it "a basic principle, well established, that fair wages must have priority over profits". It also held the view that at least in the case of bigger banks the Sastry Tribunal ought to have fixed appropriate wages and not a minimum wage it appeared to have done. The Labour Appellate Tribunal agreed with the views of the Sastry Tribunal as regards the report of Shri Subramanian in connection with fixation of wage scales but it did not agree with its findings in respect of the size of the family and the co-efficient and regarded that the basis of 2.25 consumption unit was a reasonable basis for calculating the measure of a young man's responsibility at the start and that in the absence of any definite investigation or statistics, the 1.80 co-efficient should be maintained. The Labour Appellate Tribunal has been influenced, while devising its wage structure, by another consideration, namely, that "the clerk in an A class bank in class I area should receive as his starting total emolument something midway between Rs. 130 (which the Central Government gives to its clerk) and the wages of higher commercial firms, excluding the oil companies to avoid possible contentions". The scales of wages which the Labour Appellate Tribunal finally devised while modifying the Sastry Award, closely followed the pattern of wage scales of the Sastry Tribunal but with a little higher minimum and maximum, except in, A Class banks in area I where the same minimum and maximum were kept. It retained the Sastry scales of wages for D Class banks with the proviso that they were to remain in force till 31st March 1959 and that thereafter all D Class banks were to step into C Class. It, however, raised the rates of dearness allowance considerably for A, B and C class banks in order that the total emoluments may be increased and may reach the required level in view of the above-mentioned consideration. About the pay scales of the subordinate staff, the Labour Appellate Tribunal has said that as far as practicable it has considered the same against the background and on the principles discussed by it in connection with the clerical staff. After considering the pay-scales of the Sastry Tribunal and the total emoluments paid by the commercial concerns in Bombay and Calcutta and by the Central Government in Bombay to the members of the subordinate staff, it ultimately decided to retain the wage scales of the subordinate staff awarded by the Sastry Tribunal but increased the dearness allowance payable by A, B and C Class banks in Areas I, II and III. As regards the subordinate staff of D Class banks, the scales of pay and dearness allowance given by the Sastry Tribunal were allowed to remain in operation for five years from 1st April 1954 after which period the scales of the C Class banks were to be applicable to them.

5.4. The Government modified the decision of the Labour Appellate Tribunal by its Order No. S.R.O. 2732, dated 24th August 1954, and Class III area was limited to towns and cities not included in Class I and Class II which had a population of more than 30,000, and Class IV area was created comprising places not included in Class I, Class II and Class III areas. It also created what is called Class V area comprising places in Class IV area situate in the former Part B and Part C States other than Delhi, Ajmer and Coorg. It laid down scales

3.5. The Bank Award Commission enquired into and ascertained the effects on emoluments which the employees were in receipt of prior to August 1954 (a) of the Labour Appellate Tribunal without modification and (b) of the Labour Appellate Tribunal as modified by Government order No. S.R.O. 2732, dated 24th August 1954. This Commission after an elaborate inquiry gave its recommendations which were accepted *in toto* by Government and were enforced by the enactment of the Industrial Disputes (Banking Companies) Decision Act, 1955. Subsequently, as regards the banks incorporated in Travancore Cochin State, except the Travancore Bank, the Travancore-Cochin Banking Inquiry Commission made enquiries to ascertain whether the terms and conditions of service of workmen of the banks (except the Travancore Bank) incorporated in the Travancore Cochin State, to which the provisions of the Industrial Disputes (Banking Companies) Decision Act, 1955, applied should be modified and if so, in what respect, having regard *inter alia* to the effects which the terms and conditions of service that may be recommended by the Commission, were likely to have on the general economy of the area. The recommendations of this Commission resulted in the enactment of the Industrial Disputes (Banking Companies) Decision Amendment Act, 1957. Broadly speaking, as a result of the recommendations of these two Commissions, Area IV along with the wage scales and dearness allowance for that area prescribed by the said Government modification order for the various classes of banks, came to be retained, but the exempted area, generally known as Area V was abolished; C class of banks were divided into two further classes viz., C-1 Class of banks i.e. banks which were capable of paying the dearness allowance according to the Labour Appellate Tribunal decision, and C-2 class of banks i.e. banks which were not in a position to pay the dearness allowance in accordance with the decision of the Labour Appellate Tribunal and which would be paying dearness allowance at a lesser rate. The provision that D Class banks automatically step up to C Class as from 1st April 1959 gave place to the recommendation of the Bank Award Commission that the position of these banks should be re-examined at the end of five years from 1st April 1954 with a view to considering the structure of wages and allowance for their employees. The Labour Appellate Tribunal's formula of adjustment of dearness allowance was revised, but in this respect the Commission was keen to see that whatever alternate formula was devised should have the merit of interfering as little as possible with the Labour Appellate Tribunal's wage structure and of ensuring results not significantly different from those achieved by the Labour Appellate Tribunal's formula. In the exercise of the powers conferred upon it by sub-section (5) of section 3 of the Industrial Disputes (Banking Companies) Decision Act, 1955, the Central Government has on 13th February 1960 made an adjustment in the dearness allowance formula. The present wage scales and dearness allowance in the banking industry are, therefore, the result of (a) the Sastry Award, (b) the modifications made in the Sastry Award by the Labour Appellate Tribunal's decision, (c) the modifications made by the Government modification Order No. SRO-2732 dated 24th August 1954, (d) the part restoration of the Labour Appellate Tribunal's decision after the incorporation of the recommendations of the Bank Award Commission in the Industrial Disputes (Banking Companies) Decision Act, 1955, (e) the further restoration of the Labour Appellate Tribunal's decision in respect of the banks in the State which is now known as Kerala State by reason of the recommendations of the Travancore-Cochin Banking Enquiry Commission whose recommendations were incorporated in the Industrial Disputes (Banking Companies) Decision Amendment Act, 1957 and (b) the modification made by the Government in the dearness allowance adjustment formula on 13th February 1960. The wage scales and the scheme of dearness allowance which have thus emerged are given below:—

Class 'A' Banks

Area
I . . . Rs. 85-5-100-6-112-7-140-8-164-9-227-EB-9-245
-10-265-15-280

Area		<i>Class 'A' Banks—contd.</i>	
II	. . .	Rs. 77—4—85—5—100—6—112—7—140—8—164—9—209—EB—9—245—10—255	
III	. . .	Rs. 73—4—85—5—100—6—112—7—140—8—164—9—200—EB—9—245	
IV	. . .	Rs. 66—3—69—4—85—5—100—6—112—7—140—8—164—9—182—EB—9—227	

Class 'B' Banks

Area			
I	. . .	Rs. 77—4—85—5—100—6—112—7—140—8—164—9—209—EB—9—245—10—255.	
II	. . .	Rs. 69—4—95—5—100—6—112—7—140—8—164—9—191—EB—9—236.	
III	. . .	Rs. 66—3—69—4—85—5—100—6—112—7—140—8—164—9—182—EB—9—227.	
IV	. . .	Rs. 57—3—69—4—85—5—100—6—112—7—140—8—156—EB—8—164—9—200	

Class 'C' Banks. (Including C-2)

Area			
I	. . .	Rs. 69—4—85—5—100—6—112—7—140—8—164—9—191—EB—9—236.	
II	. . .	Rs. 63—3—69—4—85—5—100—6—112—7—140—8—164—9—173—EB—9—218.	
III	. . .	Rs. 60—3—69—4—85—5—100—6—112—7—140—8—164—EB—9—209.	
IV	. . .	Rs. 54—3—69—4—85—5—100—6—112—7—140—8—148—EB—8—164—9—191.	

Class 'D' Banks.

Area			
I	. . .	Rs. 57—3—69—4—85—5—100—6—112—7—140—8—156—EB—8—164—9—200.	
II	. . .	Rs. 54—3—69—4—85—5—100—6—112—7—140—8—148—EB—8—164—9—191.	
III & IV	. . .	Rs. 51—3—69—4—85—5—100—6—112—7—140—EB—8—164—9—182.	

SUBORDINATE STAFF

Class 'A' Banks

Area			
I	. . .	Rs. 40—2—54—1—70—2—72.	
II	. . .	Rs. 36—2—54—1—69.	
III & IV	. . .	Rs. 34—2—54—1—68.	

Class 'B' Banks'

Area			
I	. . .	Rs. 36—2—54—1—69	
II	. . .	Rs. 34—2—54—1—68.	
III & IV	. . .	Rs. 32—2—54—1—67.	

Class 'C' Banks (including C-2)

Area I . . .	Rs. 34—2—34—1—68.
II . . .	Rs. 32—2—54—1—67.
III & IV . . .	Rs. 30—2—54—1—66.

Class 'D' Banks.

Area I	Rs. 32—2—54—1—67
Area II	Rs. 30—2—54—1—66
Areas III and IV	Rs. 28—2—54—1—65

5.6 The Scheme of dearness allowance in the banking industry is as under :—

DEARNESS ALLOWANCE.

Clerical Staff.

(a) For A, B and C-1 Class of banks.

Minimum		Maximum	
Area I	Rs. 50	First Slab of Rs. 100	50%
		Second Slab of Rs. 100	40%
		Thereafter	35%
Area II	Rs. 45	First Slab of Rs. 100	45%
		Second Slab of Rs. 100	35%
		Thereafter	30%
Area III	Rs. 40	First Slab of Rs. 100	40%
		Second Slab of Rs. 100	30%
		Thereafter	25%
Area IV	Rs. 25	33-1/3% of pay (basic pay, special allowance and officiating allowance) with a maximum of Rs. 40.	

(b) For C-2 and D Class of Banks

	Rate	Minimum	Maximum
Area I	33-1/3%	Rs. 35	Rs. 70
Area II	„	30	60
Areas III and IV	„	25	40

Subordinate Staff

For A, B, C-1, C-2 and D Class of Banks.

	Area I	Area II	Area III	Area IV
	Rs.	Rs.	Rs.	Rs.
A Class Banks . . .	42/50	40/-	37/50	25/-
B Class Banks . . .	40/-	37/50	35/-	20/-
C-1 Class Banks . . .	37/50	35/-	32/50	10/-
C-2 Class Banks . . .	15/-	12/-	10/-	10/-
D Class Banks . . .	13/-	12/-	10/-	10/-

Dearness Allowance Adjustment Formula.

If the average all-India cost of living index for any quarter after the 31st March, 1959 should rise or fall by more than five points as compared to 144 (1944=100), the dearness allowance payable for the succeeding quarter shall be raised or lowered, in the case of clerical staff by one-fourteenth, and in the case of subordinate staff by one-twentieth, of the dearness allowance admissible at the index level of 144 for each variation of five points.

Explanation:—"quarter" means the period of three months ending on the last day of March, June, September or December.

5.7. The All India Bank Employees Association has made demands for higher wage scales etc., on the basis that during the period of operation of the aforesaid scales of wages and dearness allowance, radical changes have taken place. It has, referred to (1) important changes in the national economy, (2) the fast deterioration in the living conditions, and (3) the change in the wage concept. It has pointed out that a clerk in a D Class bank in the first year of his service (working capital upto one crore) in Class I area (Calcutta-Bombay) draws at the cost of living index figure of 170 (1944=100) Rs. 112.50 per month as against a member of the subordinate staff similarly situate who draws Rs. 56/- per month. In Class IV area the respective amounts drawn are Rs. 86.25 and Rs. 40.50 per month. It is urged that a good number of the bank employees in different parts of the country were drawing much less than their counterparts working in any comparable concerns in those parts. The Association further states that the wage structure applicable to banking industry at present was determined on a basis which has changed. It has submitted that the entire economy situation in the country has undergone a radical change; that two successful Five Year Plans had been launched and executed; that the industrial potential had gone up; that the prices were soaring, particularly of the food-stuffs and other consumer goods; that there was a sharp decline in the purchasing power of the common man; that the living conditions of today stood no comparison with those of the earlier period that the norms of a need based wage stood crystallised as a result of the resolution passed by the 15th Tripartite Labour Conference; that the wages fixed in the year 1953 were wholly out of date and unreal and that an immediate upward revision of the wage structure of bank employees in the light of the changed circumstances had become necessary.

5.8. In connection with principles and basis of wage fixation, the Association has relied upon the expected increase in the national income by 25 per cent by the end of the Second Five Year Plan, the unanimous resolution of the Lok Sabha towards the end of 1954 for the establishment of a Socialistic Pattern of Society, the views of the Planning Commission, the directive principles in the Constitution and the concept of minimum wage and fair wage as given by the Committee on Fair Wages. The Association has submitted that in order to ascertain the requirements of a worker for the purpose of wage fixation, it is imperative to take a particular cost of living figure as the basis of calculation which should be such that below it the cost of living is not expected to go down in the foreseeable future, and that the basic wage should represent as large a part of the total emoluments as possible. The Association has submitted that the all India working class consumer price index number 105 for the year 1956 in the series 1949=100 should be taken as the base. It considers the norms laid down by the 15th Labour Conference as inadequate. According to the Association even on the footing of these norms a minimum of Rs. 140/- was payable to any bank workman in any part of the country on the 1956 average prices at the working class consumer price index No. 105 (1949=100). Applying the 80 per cent. co-efficient to Rs. 140/-, the Association contends that a middle class employee will need Rs. 252/- for the satisfaction of his minimum needs, and that the minimum wage payable to a clerk in any bank in any part of the country at the working class consumer price index number of 105 (1949=100) would be Rs. 252/-.

5.9. The All India Bank Employees Federation holds the view that circumstances have materially changed since the modified Sastry Award came into force and it advances the following grounds in support of its contention:—

- (1) The banking industry as a whole has immensely prospered and tremendously expanded.

- (2) Cost of living has substantially gone up throughout India.
- (3) National income under the First and the Second Five Year Plans has considerably increased.
- (4) Prevailing rates of wages in other industries have also considerably gone up during the last five years due to settlements and awards.
- (5) Unanimously agreed norms of minimum subsistence wage have been evolved at the 15th Indian Labour Conference and the Central Wage Boards have been appointed to fix the need based wage subject to the capacity of the industry, some of which have made their recommendations which are being implemented.
- (6) The wage scales according to the modified Sastry Award were not at all adequate to ensure minimum subsistence wage for the clerical and subordinate staff, having regard to the high cost of living prevailing all over the country.
- (7) Not only the rise in the cost of living should be fully neutralised but there should be improvement in the real standard of living of the employees.
- (8) The nature of work in the banking industry requires greater skill, accuracy, responsibility and hard labour than that required in other industries.

The Federation states that on the basis of the norms laid down at the 15th Indian Labour Conference, the national minimum subsistence wage for the lowest paid unskilled worker comes to about Rs. 150/- per month, and taking the generally accepted view that the cost of living of the middle class employees is 80 per cent. more than that of the working class employees, and having regard to other relevant factors and the revision of pay and allowances of the officers' staff in the banks during the last five years, a revision of scales of pay is fully justified.

5.10. Some other unions and associations of employees have also advanced similar arguments in justification of their demand for revised and higher scales of pay for the bank employees.

5.11. In the Statement of claim filed by the State Bank of India Staff Union, Andhra Pradesh, Vijayawada, it is pointed out that in April 1950 the Prime Minister had made a statement in the Parliament to the effect that Government was committed to the principles of fair wages as recommended by the Fair Wages Committee. It has pleaded for the fixation of a minimum wage on the basis of pre-war prices because as stated by it prices have been fluctuating during and after the war, with the result that it was not easy to get reliable figures for ascertaining the cost of the minimum requirements of workmen and that the more reliable figures of prices of food, clothing, rent, etc., before the war would be a better basis for calculation of the minimum wage. According to the union the resolution of the 15th Indian Labour Conference was a compromise where the Labour was made to sacrifice heavily for the sake of unanimity and the only benefit conferred was that in the future wage fixation, workers would not have to cover the whole ground once again but to start with the guaranteed minimum, though the minimum was very low and unsatisfactory in several ways. The union has however calculated the minimum needs of workmen on the basis of the formula laid down by the 15th Labour Conference taking the consumer price index number 360 in 1939=100 series, and has arrived at the minimum wage of Rs. 127.87 per mensem but has claimed a minimum wage of Rs. 125/- for the lowest paid employee in the State Bank of India. Applying the 1.80 co-efficient it has demanded a minimum of Rs. 220/- for a clerk in The State Bank. The All India State Bank of India Staff Federation has closely followed the logic and conclusions of the State Bank of India Staff Union, Andhra Pradesh. The State Bank of Patiala (All Cadres) Employees Association has pleaded that since this bank has been re-constituted as a subsidiary of the State Bank of India, it should be completely merged with the State Bank of India, or in the alternative pay-scales and service conditions and other benefits enjoyed by the employees of the State Bank of India should be enforced also for the employees of the State Bank of Patiala.

5.12. The scales of pay demanded by the various Associations and Unions of bank employees for the various classes of banks in respect of the clerical staff and subordinate staff are set out in the table below:—

S. No.	Name of the Employees' Association or Union	Wage Scales demanded for various Classes of banks (Clerks and Subordinates)		
		A	B	C
<i>Clerks.</i>				
1.	All India Bank Employees Association.	Rs. 220—10—240— 12½—290—15—365 —20—425—25— 550.	Rs. 190—10—240— 12½—290—15—365 —20—425—25— 475	Rs. 170—10—240— 12½—290—15— 365—20—425.
<i>Subordinates</i>				
		Rs. 125—5—155— 6—185—7—192— 8—232—9—250	Rs. 112—4—120— 5—155—6—185— 7—192—8—224	Rs. 100—4—120— 5—155—6—185— —192—8—200
<i>Clerks</i>				
2.	All India Bank Employees' Federation.	Rs. 150—10—250—15—400— 20—500	Rs. 125—10—225—15—375—20 475.	
<i>Stenographers and Steno Typists.</i>				
		Rs. 200—15—350—30—450— —25—550	Rs. 175—15—325—20—425— 25—525	
<i>Drivers</i>				
		Rs. 110—5—135—6—165—8— 265.	Rs. 105—5—160—7—230	
<i>Subordinates</i>				
		Rs. 75—3—90—4—110—5— 135—5—165	Rs. 70—3—85—4—105—5— 130—6—160	
<i>Clerks.</i>				
3.	All India State Bank of India Staff Federation	Rs. 220—10—240— 12½—290—15—365— 20—425—25—550		
<i>Sub-Accountants and Head Cashiers.</i>				
		Rs. 500—20—700		
<i>Subordinates.</i>				
		Rs. 125—5—155—6— 185—7—192—8— 232—9—250		
<i>Other categories (Drivers, Compositors, Distributors Pressmen).</i>				
		Rs. 175—5—205—6— 235—7—242—8— 282—9—300		

S. No.	Name of the Employees' Association or Union	Wage Scales demanded for various classes of banks (Clerks and Subordinates).		
		A	B	C
4.	The State Bank of India Staff Association (Delhi Circle).	<i>Clerks</i> Rs. 160—10—280—15—400 <i>Subordinates.</i> Rs. 75—4—95—120—6—150 <i>Clerks.</i>		
5.	State Bank of Patiala (All Cadres) Employees Association.	Rs. 150—10—200—15—350 <i>Subordinates</i> Rs. 65—3—80—4—100—5—125 <i>Drivers</i> Rs. 100—3—115—4—135—5—160 <i>Clerks.</i>		
6.	The Vadodra Rajya Bank Nekar Sangh.	Rs. 150—10—200—12½—275—20—375—25—500	Rs. 120—10—200—12½—275—20—375—25—425	Rs. 100—10—200—12½—275—20—375
		<i>Subordinates</i> Rs. 85—5—100—6—112—7—140—8—164—9—245		
		Rs. 77—4—85—5—100—6—112—7—140—8—164—9—227		
		Rs. 73—4—85—5—100—6—112—7—140—8—164—9—218		
		 <i>Clerks.</i>		
7.	The Indian Overseas Bank Employees Union, Madras.	Rs. 225—10—275—15—350—20—550 <i>Subordinates</i> Rs. 125—5—165—6—183—8—215 <i>Clerks.</i>		
8.	The Cochin Commercial Bank Employees Association.	Rs. 70—5—90—6—114—7—142—8—174—9—210 <i>Subordinates.</i> Rs. 35—2—65—1—70		

S. Name of the Wage Scales demanded for various Classes of banks
No. Employees' Association or Union (Clerks and Subordinates).

A

B

C

Clerks

9. The Central Bank of India Employees Association, Patna. } Rs. 150—10—250— Rs. 125—10—225—
15—400 15—375.

10. The Central Bank of India Employees' Association, Muzaffarpur }

Subordinates

11. Bihar Provincial Central Bank of India Employees Association, Muzaffarpur. } Rs. 75—3—90—4— Rs. 70—3—85—4—
110—5—135—6— 105—5—130—6—160
165

Clerks

12. The Central Bank of India, Employees' Association, Amritsar. Rs. 150—10—250—
15—400

Subordinates

Rs. 75—3—90—4—
110—4—135—6—165

Clerks.

13. The Allahabad Bank Employees Union, Calcutta. Rs. 220—10—260— Rs. 190—10—260— Rs. 170—10—240—
15—350—20—450— 15—335—20—435— 12½—290—15—
25—550. 25—485 365—20—425

Subordinates

Rs. 125—5—155—6 Rs. 112—4—120— Rs. 100—4—120—5
—185—7—192—8— 5—155—6—185— —155—6—185—7
232—9—250 7—192—8—224 —192—8—200

Clerks

14. Employees Association of the Union Bank of Bijapur and Sholapur Rs. 170—10—240—
12½—290—15—
365—20—425

Subordinates

Rs. 100—4—120—5—
155—6—185—7—
192—8—200.

5.13. The State Bank of India Staff Union, Vijayawada, The State Bank of India Employees Association (Bengal Circle), The All India Bank of Baroda Employees Federation, the South Gujarat Bank of Baroda Employees Union, have all demanded wage scales for the members of the clerical staff and the subordinate staff which are the same as those demanded by the All India Bank Employees Association for A Class banks.

5.14. In the above table the expression A class, B class and C class will have different meanings attached to them having regard to the demands made by various unions and associations of workmen. Most of the all-India Unions have indicated that they have framed the pay scales demanded by them on the basis

of the norms laid down by the 15th Indian Labour Conference Resolution. As has been indicated earlier, the All India Bank Employees Association has given the indication that its pay scales are in relation to the base year 1956 when the average all-India index number was 105 in 1949=100 series. Some unions of workmen in the State Bank of India have framed their demands on the all-India consumer price index No. 360 with base 1939=100. Several unions have not mentioned the consumer price index level at which they have framed their pay scales. A large number of unions have however adopted the All India Bank Employees Association's scales.

5.15. The All India Bank Employees Association has stated that by providing a minimum of Rs. 220/- in the pay-scale in A Class banks it did not mean that the junior-most clerk in A group of banks would be getting a fair wage on the 1956 price level and that it was not even half the fair wage.

5.16. The banks have, in general, denied the allegations made by the employees in their various statements of claim and have refuted the contentions raised by them in favour of a revision in the existing wage structure. It is denied that any radical changes have taken place. It is their contention that the present basic pay and dearness allowance in the banking industry have been laid down after elaborate enquiry and after taking into consideration all factors and circumstances appropriate for wage fixation, including the principles laid down by the Fair Wages Committee. A reference has been made to the observations of the Bank Award Commission in paragraph 49 of its report where the Commission has observed that the wages given to employees in A class banks border on the higher level of a fair wage and those given to employees in B class banks border on the lower level of a fair wage. It is stated that if the principles laid down by the Fair Wages Committee were taken into consideration, it would be clear that the present rates of emoluments of the bank employees were fair and even generous. It is pleaded that the demand for wage increase should be examined bearing in mind, inter alia, the economic policy and the economic situation in the country.

5.17. In regard to the understanding reached at the 15th Tripartite Labour Conference at which the norms of the "need-based wage" were laid down, some of the banks point out that the resolution related to industrial workmen, that the resolution did not apply to banks, that no representatives of banks were present, that the problems of banks were not examined by the Conference and that what was sought to be achieved by the resolution of that conference was an ideal which was impossible of attainment within a reasonable period of time. The correctness of the various components of the resolution which deal with consumption units and minimum requirements of food, clothing, etc. has been disputed. The use of 80 per cent co-efficient while fixing the wage scales of the clerical staff from the wage scales of the subordinate staff is also not accepted. The banks by and large have pleaded their inability to pay wages according to the estimates of need based wage made by the employees. The Exchange Banks and the State Bank of India do not plead incapacity to pay reasonable wages but they deny that they can afford to pay or could reasonably be called upon to pay the need based wage of the order calculated by the workmen. The correctness and soundness or relevance of taking the year 1956 as the base year for the fixation of wage scales has not been accepted. It is urged that the mere fact that the Second Five Year Plan was undertaken in 1956 is not a ground for taking the year 1956 as the base year. It is denied that there was no chance of the cost of living going down below the level existing in the year 1956. On the other hand, it is considered that in the near future projects undertaken during the First and the Second Five Year Plans should begin to yield results with every possibility of the prices being kept under control. The contention of the employees that there has been a tremendous rise in the cost of living resulting in sharp decline in the purchasing power of the common man is not accepted. It is stated that the average rise of five points a year during the last three years in the all-India working class consumer price index was due to the failure of crops and easy money conditions, and that for the removal of these conditions the Government was taking steps. The other reasons given on account of which some of the bankers consider that the prices of essential commodities will be coming under control are that with the recent arrangements made by India with foreign Governments, more and more food would find its way into the country on easy payment basis, that as a result of the emphasis on improvement in agriculture in the Third Five Year Plan food production will increase, bringing down the food prices and that more consumer goods will be rolled out on account of the investment in heavy industries during the First and the Second Five Year Plans. Some

of the banks recognise the necessity of taking a particular cost of living figures for the purpose of wage fixation, but they consider that the said figure will always remain a matter of conjecture as it was difficult to determine the level below which the cost of living was not expected to fall in the near future. It is submitted that in demanding a wage fixation at the index No. of 105 the intention of the employees was to have as large a part of the dearness allowance consolidated in the basic pay as possible. In connection with the contention of the employees that the national income has increased and therefore they should have a share of it, some of the banks urge that the question of augmenting of national income is quite distinct from the question of distribution of national income, that there is a shift in the pattern of national income distribution and that the need of the country today was the ploughing back of a substantial portion of the national income into the various projects for the development of the country. It is submitted that in case a consolidation of dearness allowance with the basic pay is envisaged, its overall effect on provident fund, gratuity, pension etc., must be considered before arriving at any conclusion.

5.18. On behalf of the State Bank of India and its Subsidiaries, the peculiar position and the special features of these banks and their functions and obligations are required to be kept in view. It is urged that these banks are now in the public sector and that the emoluments of their employees should not be out of step with the emoluments paid to other employees in the public sector.

5.19. On behalf of the State Bank of Patiala in reply to the statement of claim of the State Bank of Patiala (All Cadres) Employees Association the peculiar position of the existing wage structure has been explained in the following manner:—

“With reference to the resume of service conditions contained in the Employees' Association's Statement of claim, it is submitted that prior to 1st April 1960 the Bank of Patiala (the predecessor of the present bank) was run as Department of the State Government and was neither a banking company nor a banking corporation and as such, was not covered by any Reference or Award, including the Sastry Award. The bank's staff was governed by the State Regulations upto 1954, when Staff Rules were framed under the Bank of Patiala Regulation and Management Order, 1954. The pay scales and other benefits for the employees of the Bank were initially laid down more or less on the same basis as in the case of the employees of the State Government working in the Secretariat. Revision of grades were, however, made in 1957 and 1958 and these were not in any manner based on any revision that may have been effected by the State Government in the pay scales of their employees. The Employees' Association's contention that the grades and service conditions of employees prior to 31st March 1960 were at par with employees of the State Government is, therefore, not correct. In 1957, on the employees of the Bank putting forth demands for revision of their pay scales etc., the Bank's Board of Directors offered new pay scales etc., generally on the lines of the Sastry Award, as modified, to the members of the clerical and subordinate staff, giving an option to such members of the staff as wanted to retain the old grades etc., do so. These revised grades were not implemented in the case of the clerical staff as the vast majority of that staff opted for the old grades of pay etc.”

5.20. It is submitted that when bringing this bank within the ambit of the common award for the banking industry:—

- (a) there should be no retrospective effect given to any award or pay scales or allowances or other benefits and
- (b) the bank's workmen should be given the option to choose between the new pay scales, allowances, benefits etc., and the existing pay scales, allowances, benefits, etc., in their totality and not on the basis of picking and choosing the best from each set.

As regards the employees' association's demand that the bank should be entirely merged with the State Bank of India, or that in the alternative, pay scales and service conditions applicable to the workmen employed in the State Bank of India should be extended to the employees of the bank, it is submitted that the constitution of the Subsidiary banks is under an Act of Parliament, namely, the State Bank of India (Subsidiary Banks) Act, 1959, that under it each Subsidiary

bank was a separate entity although controlled by the State Bank, the Reserve Bank and the Central Government, and that Subsidiary banks were expected to stand on their own feet. It is stated that the State Bank of India assisted them by way of subsidies only for the purpose of meeting the cost of any specific programme of development undertaken with the approval of the State Bank of India and such losses or expenditure as might be approved by the State Bank of India with the consent of the Reserve Bank, it being one of the objectives of constituting Subsidiary banks to make possible the extension of banking and credit facilities to rural and semi-urban areas in former part B States and to provide finance for small scale industries and co-operatives. It is further stated that even with the present pay structure it was uneconomical for the Subsidiary banks to open branches and operate in small areas where no avenues of making profit were available but that the same had to be done by reason of statutory obligations and in the larger national interests. It is submitted that if the pay structure etc., of a Class A bank was imposed on the State Bank of Patiala or any other Subsidiary bank, they would not be in a position to carry out their obligations without being a burden on the public exchequer.

5.21. The Kerala Bankers' Association has invited attention to the peculiar feature of Kerala which is advancing money on landed property. It has also invited attention to the majority report of the non-statutory committee appointed by the Government of Kerala to go into the question of fixation of salaries and allowances of employees of the non-award banks, consisting of four representatives of the Bankers' Association and four representatives of the Kerala Employees' Union under the Chairmanship of Shri K. T. Ninan Koshi. This committee has by a majority made recommendations about the salaries and other allowances of employees in the non-award banks.

5.22. The Travancore-Cochin Bankers' Association, Kottayam, has pointed out that its four member banks (1) Palai Central Bank, (2) Travancore Forward Bank, (3) Indian Insurance and Banking Corporation Limited and (4) South Indian Bank Limited were making payments to employees according to the Sastry Award as modified. In connection with the principles and basis of wage fixation on which the workmen have placed reliance in connection with revision of their wage scales, the Association submits that they can only be applied in advanced countries like the United Kingdom or the United States of America where the per capita national income is high and that in an under-developed country like India where the standard of living is much lower the level of wages will have to depend upon the capacity of the industry to pay and should have relation to the level of wages in other industries depending upon the area of operation and other relevant matters. The Association is against the merger of a part of the dearness allowance with the basic wage as it considers that the totality of the burden would become heavy.

5.23. The Northern India Banks Association has pleaded that the Sastry Tribunal was of the view that the paying capacity of D Class banks, "most of whom had migrated following the partition of the country from the territories now forming the part of West Pakistan", was very low and that the same was the reason why the scales of pay fixed by the Sastry Award for such class of banks were upheld by the Labour Appellate Tribunal decision, by the Government modification order and finally by the Bank Award Commission. The Association has expressed itself in favour of taking the base year of 1949=100. The Association considers that the existing minimum and maximum of the scales are fair and reasonable, but in case the Tribunal found it necessary to change the scales of pay, the Association has proposed the following scales of pay applicable to clerical and subordinate staff in C Class banks.

Clerks

Area I. Rs. 70-5-105-6-147-7-196 8-252-EB-9-315.

Area II. Rs. 65-5-100-6-142-7-191-8-247-EB-9-310.

Area III. Rs. 60-5-95-6-137-7-186-8-242-EB-9-305.

Area IV. Rs. 55-5-90-6-132-7-181-8-237-EB-5-300.

Peons

Areas I to IV : Rs. 52-2-102.

5.24. The National Bank of Lahore which is a member bank of the Northern India Banks Association has by a separate statement pleaded that the wage structure should be such as to be within the capacity of the industry to bear in the light not only of its present position but also of its future possibilities and responsibilities. It has pointed out that the National Bank of Lahore, is paying "(a) profit basic wage to its employees, (b) a dearness allowance much above the one fixed by the Awards which are enforced (c) Provident Fund benefit much above the one fixed by the award, (d) gratuity and bonus, (e) medical aid" and it is pleaded that there should be no change in the wage structure of its employees. The bank has expressed itself against the merger of dearness allowance with basic wage. The bank is not prepared to accept the view that there is no chance of the cost of living going down below the level that existed in the year 1956 and considers that the whole economy of the country was being so worked and planned that the cost of living should come down steeply to the level which existed in pre-war days as under the Third Five Year Plan, complete self-sufficiency in food and cloth is envisaged, free compulsory education at certain standards has been promised, deficit financing has been abandoned as a method of future finance, complete check on inflation is in view, and heavy taxes are in the offing.

5.25. The Bharatha Lakshmi Bank admits the principle of "pay according to capacity" and suggests the creation of 5 areas on the basis of population, the respective figure being (1) 10 lacs and over (2) more than 5 lacs but less than 10 lacs (3) one lac and above but less than 5 lacs, (4) 30,000 and above but less than 1 lac and (5) less than 30,000. The scales of pay for the five areas in respect of class D banks with working funds of less than rupees one crore as suggested by the bank are as under:—

For Clerical Staff

Areas 5 and 4 : Rs. 51-3-69-4-85-5-100-6-112-7-140-8-164-9-182.

Areas 3 and 2 : Rs. 54-3-69-4-85-5-100-6-112-7-140-8-164-9-191.

Area 1 : Rs. 57 3-69-4-85-5-100-6-112-7-140-8-164-9-200.

For Subordinate Staff

Areas 5 and 4: Rs. 28—2—54—1—65.

Areas 3 and 2: Rs. 30—2—54—1—66.

Area 1: Rs. 32—2—54—1—67.

5.26. The Gadodia Bank, while referring to the change of circumstances pointed out by the workmen for a revision in their wage scales, states that the Sastry Award as modified provides for a "compact link for the present and future adjustment in case of changes that take place" and that the "wage scales are wedded to the cost of living index and as and when there is any rise in cost of living index, the employees are being compensated within the frame work of the recommendations". Another point which this bank has raised is that the standard of recruitment of clerks and other employees is different in A Class banks and D Class banks. The bank is against the merger of dearness allowance with the basic wage. According to the bank, a minimum wage under the Minimum Wages Act is the accepted standard by which the wage structure could be built. The Jaya Laxmi Bank does not consider the fixation of a uniform minimum wage for all areas based on living index figures obtaining in big cities as proper. The wage scales demanded by workmen have been considered as beyond the capacity of small banks and a plea has been made for the retention of the present wage structure. The Miraj State Bank has taken the point of jurisdiction on the ground that the bank is still governed by the Bombay Industrial Relations Act, 1946, that the agreement reached in conciliation proceedings on 25th June, 1952, under the said Act was applicable to all branches of the bank, that under section 116 of the said Act an agreement or settlement which has been entered into and registered remained in force and binding on the parties until it was terminated by two months' notice by either party, that such notice had not been served by workmen on the bank and that the said agreement was legally binding on the workmen. On merits, the bank opposes the demand of the employees

about the pay scales and considers that the pay scales and dearness allowance under the abovementioned agreement were adequate and no further increase or improvement in them was called for either from the point of view of the capacity of the bank to pay or from the point of view of the needs of the workmen.

5.27. The scheme of basic wages and the scheme of dearness allowance in force at present are the result of the working of many minds at various levels and provide a pattern which is unique. The wage structure differs according to the class of banks and according to the area which the banking establishments are situate. At the all-India working class consumer price index No. 123 in the series 1949=100 an employee in the clerical grade in the first year of his service in Area I is paid by A Class banks Rs. 85 as basic pay and Rs. 67.85 as dearness allowance, by B Class banks Rs. 77 as basic pay and Rs. 67.85 as dearness allowance, by C-1 Class banks Rs. 69 as basic pay and Rs. 67.85 as dearness allowance, by C-2 Class banks Rs. 69 as basic pay and Rs. 47.50 as dearness allowance and by D Class banks Rs. 57 as basic pay and Rs. 47.50 as dearness allowance. As regards a member of the subordinate staff in the first year of his service, the picture is somewhat different. In Area I and at the same index figure of 123, A Class banks pay Rs. 40 as basic pay and Rs. 53.13 as dearness allowance, B Class banks pay Rs. 36 as basic pay and Rs. 50 as dearness allowance, C-1 Class banks pay Rs. 34 as basic pay and Rs. 46.87 as dearness allowance, C-2 Class banks pay Rs. 34 as basic pay and Rs. 18.75 as dearness allowance and D Class banks pay Rs. 32 as basic pay and Rs. 16.25 as dearness allowance.

5.28. In Area II, at the same index number of 123 in the series 1949=100 a member of the Clerical staff in the first year of his service is paid by A Class banks a basic pay of Rs. 77 and dearness allowance of Rs. 61.05, by B Class banks a basic pay of Rs. 69 and dearness allowance of Rs. 61.05, by C-1 Class banks a basic pay of Rs. 63 and dearness allowance of Rs. 61.05, by C-2 Class banks a basic pay of Rs. 63 and dearness allowance of Rs. 40.70 and by D Class banks a basic pay of Rs. 54 and dearness allowance of Rs. 40.70.

5.29. In Area II a member of the subordinate staff in the first year of his service is paid at the same index No. 123 by A Class banks a basic pay of Rs. 36 and dearness allowance of Rs. 50, by B Class banks a basic pay of Rs. 34 and dearness allowance of Rs. 46.87, by C-1 Class banks a basic pay of Rs. 32 and dearness allowance of Rs. 43.75, by C-2 Class banks a basic pay of Rs. 32 and dearness allowance of Rs. 15 and by D Class banks a basic pay of Rs. 30 and dearness allowance of Rs. 15.

5.30. In Area III at the same index number a member of the clerical staff in the first year of his service is paid by A Class banks a basic pay of Rs. 73 and dearness allowance of Rs. 54.25, by B Class banks a basic pay of Rs. 66 and dearness allowance of Rs. 54.25, by C-1 Class banks a basic pay of Rs. 60 and dearness allowance of Rs. 54.25, by C-2 Class banks a basic pay of Rs. 60 and dearness allowance of Rs. 33.90 and by D Class banks a basic pay of Rs. 51 and dearness allowance of Rs. 33.90. The wage picture as regards the subordinate staff in Area III, at the same index number, is that under similar circumstances A Class banks pay a basic pay of Rs. 34 and dearness allowance of Rs. 46.87, B Class banks pay a basic pay of Rs. 32 and dearness allowance of Rs. 43.75, C-1 Class banks pay a basic pay of Rs. 30 and dearness allowance of Rs. 40.62, C-2 Class banks pay a basic pay of Rs. 30 and dearness allowance of Rs. 12.50 and D Class banks pay a basic pay of Rs. 28 and dearness allowance of Rs. 12.50.

5.31. In Area IV at the aforementioned index figure a member of the clerical staff in the first year of his service gets Rs. 66 as basic pay and Rs. 33.90 as dearness allowance in A Class banks, Rs. 57 as basic pay and Rs. 33.90 as dearness allowance, in B Class banks, Rs. 54 as basic pay and Rs. 33.90 as dearness allowance both in C-1 Class banks as well as in C-2 Class banks and Rs. 51 as basic pay and Rs. 33.90 as dearness allowance in D Class banks. A member of the subordinate staff in this Area under similar circumstances is paid Rs. 34 as basic pay and Rs. 31.25 as dearness allowance by A Class banks, Rs. 32 as basic pay and Rs. 25 as dearness allowance by B Class banks, Rs. 30 as basic pay and Rs. 12.50 as dearness allowance by both C-1 and C-2 Class banks and Rs. 28 as basic pay and Rs. 12.50 as dearness allowance by D Class banks.

5.32. The total emoluments payable under the Sastry Award as modified at the all-India working class consumer price index No. 123 base 1949=100, to all

members of the clerical and subordinate staff in the first year of service in various classes of banks and in various areas are as under:—

Areas	Total emoluments in various Classes of banks				
	A Class	B Class	C Class		D Class
			C-1	C-2	
<i>Clerks</i>					
Area I	152.85	144.85	136.85	116.50	104.50
Area II	138.05	130.05	124.05	103.70	94.70
Area III	127.25	120.25	114.25	93.90	84.90
Area IV	99.90	90.90	87.90	87.90	84.90
<i>Subordinate</i>					
Area I	93.13	86.00	80.87	52.75	48.25
Area II	86.00	80.87	75.75	47.00	45.00
Area III	80.87	75.75	70.62	42.50	40.50
Area IV	65.25	57.00	42.50	42.50	40.50

5.33. It will be seen from the above that the total emoluments (i.e. basic wage plus dearness allowance) payable by A, B and C-1 Class of banks in Area I, in Area II and in Area III are fairly correlated. The differences in the amounts payable by D Class banks and by C-1 Class banks in Area I, Area II and Area III are large. The differences in the amounts payable in Area IV and payable in Area III by A, B and C-1 Classes of banks are also large. There is a considerable gulf between the emoluments payable in Areas I, II and III by C-1 Class banks and by C-2 Class banks though all of them fall within one common class regard being had to the working funds. Anomalous situations arise when banks get upgraded from Class D to Class C-1 by reason of their working funds touching or crossing, the limit of Rs. 1 crore for the requisite period and when by reason of the increase in population or as a result of any voluntary action of a bank, or as a result of any agreement or award, a place in Area IV is upgraded to Area III. When a B Class bank gets upgraded and becomes an A Class bank, the emoluments payable to the members of the clerical staff in Area I in the first year of service increase from Rs. 144.85 to Rs. 152.85, the percentage of increase being 5.52. When a C-1 Class bank gets upgraded to B Class, the emoluments of a similar employee increase from Rs. 136.85 to Rs. 144.85 the percentage of increase being 5.84. When, however, a D Class bank gets upgraded to C-1 Class under the terms of the Sastry Award as modified on its working funds reaching or crossing the limit of one crore for the requisite period, on such upgradation a member of the clerical staff in the first year of service who is drawing Rs. 104.50 will receive Rs. 136.85, the percentage of the increase being 30.8. A C-2 Class bank whose working funds might be very much more than those of such newly upgraded bank will pay Rs. 116.50 only as against Rs. 136.85 payable by such newly upgraded bank. On similar upgradation of a D Class bank to C-1 Class the percentage of increase in the emoluments of a member of the clerical staff in the first year of service in Areas II and III would be 30 and 34.5 respectively. As regards a member of the subordinate staff in the first year of his service the percentages of such increase in Areas I, II and III on such upgradation of a bank from Class D to Class C-1 will be 67.6, 68 and 74 respectively as against only 6.3, 6.7 and 7.2 percentages of increase on upgradation of a bank from Class C-1 to Class B in Areas I, II and III respectively and 8.3, 6.3 and 6.7 percentages of increase on upgradation of a bank from Class B to Class A in Areas I, II and III respectively. When a place in Area IV is upgraded to Area III, a C-1 Class bank will have to give to an employee in the clerical grade in the first year of his service an increase from Rs. 87.90 to Rs. 114.25, a B Class bank would have to give an increase from Rs. 90.90 to Rs. 120.25 and an A Class bank would have to give an increase from Rs. 99.90 to Rs. 127.25. When, however, a place in Area III is upgraded to Area II or a place in Area II is upgraded to Area I the incidence of increase is very much less. Similar anomalies will be found in respect of the emoluments payable to the members of the subordinate staff when a place in Area IV is upgraded to Area III. Similar anomalies can be pointed out in respect of employees who have put in various periods of service.

5.34. Before I consider the various demands made on behalf of the workmen and the submissions of the banks, I shall first consider the general principles of wage fixation.

(ii) Principles of Wage Fixation

5.35. This Tribunal has been constituted under the Industrial Disputes Act, 1947. The preamble to the Act indicates that the said Act was enacted to make provision for the investigation and settlement of industrial disputes, and for certain other purposes appearing in the said Act. Under section 7B, the Central Government is empowered to constitute one or more National Industrial Tribunals for the adjudication of the industrial disputes which, in the opinion of the Central Government, involve questions of a national importance or for the adjudication of industrial disputes which are of such a nature that industrial establishments situated in more than one State are likely to be interested in, or affected by, such disputes. In considering disputes the adjudication whereof involves questions of a national importance it would not be out of place to refer to the following words of the Preamble to the Constitution of India which express the will of the people of India:—

"We, the People of India, having solemnly resolved.....to secure to all its citizens: Justice, social, economic and political;..... Equality of status and of opportunity; and to promote among them all Fraternity assuring the dignity of the individual..... give to ourselves this Constitution."

By the Directive Principles of State Policy embodied in Article 43 of the Constitution, it is provided that the State shall endeavour to secure, by suitable legislation or economic organisation or in any other way to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities.

5.36. On 21st December, 1954 the Lok Sabha adopted a resolution by which the establishment of a socialistic pattern of society has been accepted as the objective of State Policy with the consent and concurrence of all the political parties in the country. The adjudication in respect of the matters referred to the Tribunal has to be done in the background of the statement in the Preamble to the Constitution, the Directive Principles of State Policy and the resolution unanimously adopted by the Lok Sabha.

5.37. The jurisdiction of a National Industrial Tribunal in determining matters which come before it is in certain respects wider than the jurisdiction of an ordinary Court of law. An ordinary Court of law proceeds on the footing that no power exists in the Courts to make contracts for persons and that the parties must make their own contracts. The Courts reach their limit of power when they enforce contracts which the parties have made. An Industrial Tribunal is not so fettered and may create new obligations or modify contracts in the interest of industrial peace, to protect legitimate trade union activities and to prevent unfair practice or victimisation. It has been so held by the Supreme Court in *Rohtas Industries Ltd. v. Brijnandan Pande and others*, 1956 Supreme Court Report 800, 1956(II) Labour Law Journal 444 at page 449. As observed by Ludwig Teller in *Labour Disputes and Collective Bargaining*, Vol. I at page 536:—

"Industrial arbitration may involve the extension of an existing agreement, or the making of a new one, or in general the creation of new obligations or modifications of old ones, while commercial arbitration generally concerns itself with interpretation of existing obligations and disputes relating to existing agreements."

The Federal Court in the case of *Western India Automobile Association Ltd. v. Industrial Tribunal and others*, 1949 Federal Court Report 321 at page 345, 1949 Labour Law Journal 245, has observed that the above statement by Ludwig Teller was a true statement about the functions of an Industrial Tribunal in Labour disputes. The relations between employers and employees are no longer left to the free play of economic forces. The concept of social and economic justice as embodied in the Directive Principles of State Policy comes into play. The needs of the industry have to be harmonised with the needs of the workmen and the dignity of the individuals. To secure a living wage is the objective of State Policy. Before a living wage can be secured to workmen various factors

have to be considered. The industry concerned must have the capacity to bear the burden of a living wage to workmen.

5.38. Wages have been considered under three different heads:—

- (1) Living Wage,
- (2) Fair Wage, and
- (3) Minimum Wage.

These concepts have been fairly dealt with in the report of the Committee on Fair Wages. A large part of its conclusions has been accepted by the Supreme Court in the case of *Express Newspapers (Private) Ltd. and another v. The Union of India*, 1959 Supreme Court Report 12, 1961(1) Labour Law Journal 339. The most expressive definition of a living wage is that given by Justice Higgins of the Australian Commonwealth Court of Conciliation in the *Harvester case*. A living wage is defined by Justice Higgins as one appropriate for "the normal needs of the average employee, regarded as a human being living in a civilised community". This cryptic pronouncement has been explained by Justice Higgins by saying that a living wage must provide not merely for absolute essentials such as food, shelter and clothing but for "a condition of frugal comfort estimated by current human standards". It must be a wage "sufficient to insure the workman food, shelter, clothing, frugal comfort, provision for evil days, etc. as well as regard for the special skill of an artisan if he is one". In a subsequent case he observed that "treating marriage as the usual fate of adult men, a wage which does not allow of the matrimonial condition and the maintenance of about five persons in a home would not be treated as a living wage". In the Report of the Committee on Fair Wages it is stated in paragraph 7 as under:—

"there is general agreement that the living wage should enable the male earner to provide for himself and his family not merely the bare essential of food, clothing and shelter but a measure of frugal comfort including education for the children, protection against ill-health, requirements of essential social needs, and a measure of insurance against the more important misfortunes including old age."

5.39. A reference may be made to the following observations of Mr. Philip Snowden at pages 1 and 6 of "The Living Wage" in connection with the concept of a living wage and the problem of converting the concept into monetary terms:—

"It may be possible to give a precise or satisfactory definition of a living wage, but it expresses an idea, a belief, a conviction, a demand. The idea of a living wage seems to come from the fountain of justice which no man has ever seen, which no man has ever explained, but which we all know is an instinct divinely implanted in the human heart. A living wage is something far greater than the figures of a wage schedule. It is at the same time a condemnation of unmerited and unnecessary poverty and a demand for some measure of justice."

* * * *

"The amount of the living wage in money terms will vary as between trade and trade, between locality and locality. But the idea is that every workman shall have a wage which will maintain him in the highest state of industrial efficiency, which will enable him to provide his family with all the material things which are needed for their health and physical well being, enough to enable him to qualify to discharge his duties as a citizen."

The Supreme Court in the case of *Standard Vaccum Refining Company of India Ltd., v. Its workmen (including clerical staff) and another (Petroleum Refineries Employees' Sabha)* reported in 1961(I) Labour Law Journal page 227 at page 234 has observed that it is in the aforesaid broad and idealistic sense that a reference has been made in Article 43 of the Constitution to the living wage. The concept of a Living Wage is not a static concept. In connection with the concept of basic minimum wage, fair wage and living wage, the Supreme Court has in the aforesaid case observed at page 233 as under:—

"the concepts of these wages cannot be described in definite words because their contents are elastic and they are bound to vary from time to time and from country to country.....
What is a subsistence wage in one country may appear to be much below the subsistence level in another; the same is true about a fair

wage and a living wage; what is a fair wage in one country may be treated as a living wage in another, whereas what may be regarded as a living wage in one country may be no more than a fair wage in another."

It has further observed at page 239 that under the living wage a workman would be entitled to claim an optimum diet as prescribed by Dr. Aykroyd. Similarly the requirements as to clothing and residence which have been recognised in the tripartite resolution, though appropriate in reference to a need based minimum wage would have to be widened in relation to a living wage. Besides, in determining the money value of the living wage it would be necessary to take into account the requirements of "good education for children, some amusement, and some expenditure for self development."

5.40. In connection with the concept of a minimum wage, it has been observed by the Committee on Fair Wages that a minimum wage must provide not merely for the bare sustenance of life but for the preservation of the efficiency of the worker by providing for some measure of education, medical requirements and amenities. It has been further observed that the minimum wage must be paid irrespective of the capacity of the industry to pay the same. In connection with the concept of minimum wage a reference is necessary to the resolution passed at the 15th Labour Conference held at New Delhi on 11th and 12th July, 1957 wherein certain norms have been laid down. The same have been considered at some length in another part of this award.

5.41. In connection with the fair wage, it is observed by the Committee on Fair Wages that there was complete unanimity of opinion that the fair wage should on no account be less than the minimum wage. The Supreme Court in the case of the Express Newspapers (Private) Ltd. has observed at page 364 that the fair wage is "a mean between the living wage and the minimum wage". As observed by the Committee on Fair Wages while the lower limit of the fair wage must obviously be the minimum wage, the upper limit is equally set by what may broadly be called capacity of industry to pay. Between these two limits the actual wages will depend on:—

- (1) the productivity of labour;
- (2) the prevailing rates of wages in the same or similar occupations in the same or neighbouring localities;
- (3) the level of the national income and its distribution; and
- (4) the place of the industry in the economy of the country.

According to the Report of the Committee on Fair Wages in determining the capacity of an industry to pay, it would be wrong to take the capacity of a particular unit or the capacity of all industries in the country. The relevant criterion should be the capacity of a particular industry in a specified region to be ascertained by taking a fair cross section of that industry. The Supreme Court in the case of the Express Newspapers (Private) Ltd. at page 366 has observed that:

"The capacity of an industry to pay should be gauged on an industry-cum-region basis after taking a fair cross-section of that industry. In a given case it may be even permissible to divide the industry into appropriate classes and then deal with the capacity of the industry to pay classwise."

5.42. The level of wages should be so fixed as to enable the industry to maintain production with efficiency. The fair wages fixed should not be so out of tune with wages in other industries in the region as to cause movement of labour and consequent industrial unrest. The Supreme Court in the case of Express Newspapers (Private) Ltd. has observed at page 366 as follows:—

"The main consideration which is to be borne in mind is that the industry should be able to maintain production with efficiency and the fixation of rates of wages should be such that there are no movements from one industry to another owing to wide disparities and employment at existing levels is not only maintained, but if possible increased."

5.43. E. M. Burns in the book "Wages and the States" has at page 387 referred to various considerations which have to be borne in mind when fixing wages.

"It would be necessary to inquire *inter alia* into the elasticity of demand for the product, for on this depends the extent to which employers could transfer the burden of the increased wage to consumers. It would also be necessary to inquire how far the enforced payment of

a higher wage would lead employers to tighten up organisation and so pay the higher wage without difficulty.

Similarly it frequently happens that an enhanced wage increases the efficiency of the lowest paid workers; the resulting increase in production should be considered in conjunction with the elasticity of demand for the commodity before the ability of a trade to pay can fairly be judged.

Again unless what the trade can bear be held to imply that in no circumstances should the existing rate of profit be reduced, there is no reason why attempts should not be made to discover how far it is possible to force employers to bear the burden of an increased rate without driving them out of business. This would involve an investigation into the elasticity of supply of capital and organising ability in that particular trade, and thus an inquiry into the rate of profits in other industries, the case with which transferences might be made, the possibility of similar wage regulation extending to other trades, and the probability of the export of capital and organizing ability, etc."

5.44. In the First Five Year Plan the authors thereof have observed at page 584 as follows:—

- 2(a) All wage adjustments should conform to the broad principles of social policy and disparities of income have to be reduced to the utmost extent. The worker must obtain his due share in the national income.
- (b) The claims of labour should be dealt with liberally in proportion to the distance which the wages of different categories of workers have to cover before attaining the living wage standard.

5.45. The principles of industrial adjudication have been well set out in the decision of the Supreme Court in the case of *M/s. Crown Aluminium Works v. Their Workmen*, reported in 1958 (1) Labour Law Journal page 1 at page 6 in words following which may well be reproduced here:—

"Though social and economic justice is the ultimate ideal of industrial adjudication, its immediate objective in an industrial disputes as to the wage structure is to settle the dispute by constituting such a wage structure as would do justice to the interests of both labour and capital, would establish harmony between them and lead to their genuine and wholehearted co-operation in the task of production. ***In achieving this immediate objective industrial adjudication takes into account several principles such as for instance, the principle of comparable wages, productivity of the trade or industry, cost of living and ability of the industry to pay. ** *. In deciding industrial disputes in regard to wage structure one of the primary objectives is and has to be the restoration of peace and good will in the industry itself on a fair and just basis to be determined in the light of all relevant considerations."

5.46. This Tribunal will have to keep in mind these principles to the extent that they are applicable in the circumstances of the case.

5.47. The problem of wage determination cannot be considered in isolation from the larger economic and social background obtaining in the country. A delicate balance has to be struck between fair wages to workers and officers' fair profits to the shareholders and fair service at reasonable rates to the community, after taking into account the share of the Government in profits in the shape of taxes and after considering the amounts of reserves and depreciation necessary for the stability and healthy functioning of the industry. From the purely economic point of view the wage policy has to take into account the inflationary pressures. It is necessary to provide for wage differentials based on job evaluation as the economic structure in India is not founded on the principle: "to each according to his needs and from each according to his capacity."

(iii) The 15th Indian Labour Conference

5.48. The Second Five Year Plan at page 579 refers to one important aspect of wage policy, namely, the laying down of principles to bring wages into conformity with the expectations of the working class in the future pattern of society.

5.49. The Planning Commission set up an official Study Group to examine the data and information available in the country in connection with framing suitable guide-lines for the settlement of wage demands. The Study Group held a series of meetings between June and October, 1956 and considered various issues affecting the question of wages. It then appointed a Sub-Group to prepare material which could be presented in the form of a Report. This Sub-Group recommended to the Study Group that rather than drawing up a formal report, it would be better if notes were prepared on different aspects of wage problems and sent to the wage fixing machinery. This plan was approved by the Study Group and the following four notes were drawn up:—

- (a) Some general principles in the determination of industrial wages in India.
- (b) Principles of Wage Fixation. (A study of Industrial Awards).
- (c) Determination of Minimum Wages, and
- (d) Share of Wages in Factory output.

These notes were circulated with a view that the 15th Indian Labour Conference may discuss them and reach conclusions in the light of which the notes could be modified and sent to the wage fixing authorities as conclusions of the Indian Labour Conference. At the meeting of the 15th Indian Labour Conference, which was held in the month of July 1957, a committee was appointed to deal *inter alia*, with an item on the agenda relating to the wage policy during the Second Five Year Plan. The committee considered the four notes placed before it and felt that they would be useful as background material for wage fixation. It took note of the difficulties in assessing quantitatively the individual importance of various factors affecting wage fixation, such as, productivity, cost of living and relation of wages to national income and discussed the wage policy with specific reference to minimum wages and fair wages. The recommendations of this committee were adopted with certain modifications by the 15th Indian Labour Conference. The Resolution of the 15th Indian Labour Conference on the subject provides as under:—

“With regard to the minimum wage fixation it was agreed that the minimum wage was ‘need based’ and should ensure the minimum human needs of the industrial worker, irrespective of any other considerations. To calculate the minimum wage, the Committee accepted the following norms and recommended that they should guide all wage fixing authorities, including minimum wage committees, wage boards, adjudicators, etc.:

- (i) In calculating the minimum wage the standard working class family should be taken to consist of 3 consumption units for one earner; the earnings of women, children and adolescents should be disregarded.
- (ii) Minimum food requirements should be calculated on the basis of a net intake of 2,700 calories, as recommended by Dr. Aykroyd for an average Indian adult of moderate activity.
- (iii) Clothing requirements should be estimated at a *per capita* consumption of 18 yards per annum which would give for the average workers family of four, a total of 72 yards.
- (iv) In respect of housing the norm should be the minimum rent charged by Government in any area for houses provided under the Subsidised Industrial Housing Scheme for low income groups.
- (v) Fuel, lighting and other “miscellaneous” item of expenditure should constitute 20 per cent. of the total minimum wage.

5.50. While agreeing to these guide lines for fixation of the minimum wage for industrial workers throughout the country, the Committee recognised the existence of instances where difficulties might be experienced in implementing these recommendations. Wherever the minimum wage fixed went below the recommendations, it would be incumbent on the authorities concerned to justify the circumstances which prevented them from the adherence to the norms laid down.”

551. Strong reliance was placed on behalf of the workmen on this resolution passed at this Conference. It was a Conference at which amongst the distinguished persons present were Shri G. L. Nanda, the then Union Minister for Labour and Employment and Planning, Shri Morarji Desai, the then Union Minister for Commerce and Industry, Shri Jagjivan Ram, the then Union Minister for Railways, Shri Lal Bahadur Shastri, the then Union Minister for Transport and Communications, Sardar Swaran Singh, the then Union Minister for Steel, Mines and Fuel, Shri K. C. Reddy, the then Union Minister for Works, Housing and Supply, Shri Abid Ali, the then Union Deputy Minister for Labour and Employment and Shri L. N. Misra, the then Parliamentary Secretary to the Union Minister for Labour and Employment. Various State Governments were also represented at the Conference. The Employers' Federation of India, The All India Organisation of Industrial Employers and the All India Manufacturers' Organisation were represented at this Conference. On the workers side, there were representatives of the Indian National Trade Union Congress, the All India Trade Union Congress, the Hind Mazdoor Sabha and the United Trade Union Congress.

552. It was contended before me that this resolution was binding on this Tribunal and that this Tribunal was under an obligation to act in accordance therewith. It was further urged that if the Tribunal could not award a minimum wage in accordance with the principles laid down in the said resolution it was incumbent on the Tribunal to justify the circumstances which prevented it from the adherence to the said norms. The words of the resolution on which this submission is founded run as follows:

"Wherever the minimum wage fixed went below the recommendations it would be incumbent on the authorities concerned to justify the circumstances which prevented them from the adherence to the norms laid down."

The resolution represents the views of the 15th Indian Labour Conference and is in the main recommendatory. A Labour Conference is not entitled to give any directions to a Tribunal like the National Industrial Tribunal or to use the language of dictation or command in connection with such a Tribunal and it could not possibly have been the intention of the Conference to do so. As stated in the summary of the proceedings of the 15th Indian Labour Conference, Shri Shantilal Shah, Minister for Labour and Law of the then State of Bombay suggested that "the Committee's Report might be sent only to wage boards set up by an executive authority and not to those set up by the judicial authority." It is stated in the summary of the proceedings that the Chairman explained "that Government would have to devise some means to implement the principles on an agreed basis and to ensure their observance as courts could not be forced to follow them". The 15th Labour Conference is not a statutory body. However eminent may be the persons who attended the Conference, the resolutions passed at the Conference have no binding force.

553. It was then urged that this resolution should be regarded as binding, as it constituted an agreement arrived at between all employers in industry, including Government, on the one hand, and all the employees in industry on the other. The resolution passed at this Conference has not been ratified by any of the Governments concerned, or by the employers Federation and Organisations. No evidence has been led before me to show that it has been ratified by workmen's organisations.

554. The Second Commission of Enquiry on Emoluments and Conditions of Service of Central Government Employees addressed a letter on 14th March, 1938 to the Central Government in terms following:—

"The Commission wish to know whether the Central Government now stand committed to the adoption, during the current Five Year Plan, of a policy of need-based minimum wage, or pay determined by the norms laid down by the Labour Conference; and if so, whether the policy applied to the Central Government's own employees, as well as to others. ***** One of the Clauses of the resolution of the Conference provides that wherever the minimum wage fixed was below the norms recommended, it would be incumbent on the authorities concerned to justify the circumstances which prevented them from adherence to those norms. If possible it may be clarified whether this clause contemplates departures from the general standard only for exceptional reasons in particular cases, or also on general considerations, such as the present level of national income, stage of economic development, requirements of developmental planning etc."

A reply was sent thereto towards the end of April 1958 by the Secretary to the Government of India, Department of Expenditure, Ministry of Finance, explaining the Government's position in the following words:—

"....The Government desire me to make it clear that the recommendations of the Labour Conference should not be regarded as decisions of Government and have not been formally ratified by the Central Government. They should be regarded as what they are namely, the recommendations of the Indian Labour Conference which is tripartite in character. Government have, at no time, committed themselves to taking executive action to enforce the recommendations."

The recommendations of this Conference have not been made applicable to employees in the public sector. So far as the banks which are parties to the dispute before me are concerned, by no stretch of imagination it can be said that these banks had expressly or by implication agreed to be bound by the recommendations of the 15th Indian Labour Conference. There is no merit in the contention that there is an agreement arrived at between the banks, which are before me, and their employees which makes the resolution binding.

5.55. Apart from its binding character, this resolution which has been unanimously passed by men occupying high responsible positions and status, is entitled to great weight. For the first time in India, norms have been crystalised for the purpose of fixation of a need based minimum wage in a Conference where the participants were drawn from the ranks of Government, industry and labour. These recommendations represent a landmark in the struggle of labour for fixation of a minimum wage in accordance with the needs for the workmen. The resolution lays down what a minimum wage should be. It recognises that the minimum wage was "need-based". It is a resolution passed in connection with the needs of an "industrial worker". The norms laid down by it are standardized norms applicable to all industrial workers whatever may be their age and whatever may be the number of years of service they may have put in. The standard of a working class family has been laid as comprising 3 consumption units for one earner, the earnings of women, children and adolescents being disregarded. These three consumption units are intended to provide for one adult male, one adult female and two children. This norm has been laid down for the purpose of fixing a minimum wage at all stages in the life of a workman. The norm would be 3 consumption units at a time when a workman may be unmarried and may have no children and dependants. This norm is equally applicable at a time when a workman may have more than two children and other dependants to maintain. This norm is laid down even when a worker may have an earning wife. It is a standardized norm representing the average need of a workman having due regard to various stages in his life. The minimum food requirement on the basis of a net intake of 2700 calories has been laid down even though human metabolism is such that after middle age lesser calories would be required than during the earlier period. The norm in respect of the minimum food requirements is a norm not based on the actual quantity of food consumed by workmen in India, but represents the needs of the workmen in connection with what Dr. Aykroyd considered was required to be consumed.

5.56. It is urged on behalf of the employees that the resolution of the 15th Labour Conference provides a formula which by simple process of mathematical calculation short-circuits laborious steps which would otherwise have to be taken in order to discover the prevailing need-based wage. The matter is not so simple as is sought to be made out. When one looks at the resolution passed at the Conference, it is not clear whether it has recommended a diet according to Table II (Balanced Diet) to be found in Dr. Aykroyd's Health Bulletin No. 23 or according to Table IV (Improved Diet) mentioned in the Bulletin. It is further not clear whether the diet to be taken into account is vegetarian diet or non-vegetarian diet. The 2700 calories of food recommended by Dr. Aykroyd are made up of diverse calories to be derived from various items of diet listed by him. The intake of calories recommended by him under different items of food can be obtained from various articles, the cost and the nutritive value whereof vary. The cost would depend upon the quality and the quantity of the articles consumed. 14 ounces of cereals recommended by Dr. Aykroyd can be made up of rice alone or wheat alone or millets alone or a combination of one with the other or of all in various proportions. The cost of the diet would vary with the selection of the articles. As regards clothing, the quality of clothing is not mentioned. Under the resolution fuel, lighting and other "miscellaneous" items of expenditure account for 20 per cent of the total minimum

wage. In other words, this expenditure is equal to 25 per cent of the total expenditure on the three items of food, clothing and housing. The actual amount to be provided for fuel, lighting and other miscellaneous expenses would vary according to the size of the expenditure on the items representing food, clothing and housing, the norms in respect whereof are not very clearly specified. In connection with this resolution it has been observed at page 91 of the Third Five Year Plan—a draft outline—published by the Planning Commission as under:—

“On the basis of agreement between the parties, the Indian Labour Conference had indicated the content of the need-based minimum wage for guidance in the settlement of wage disputes. This has been reviewed in the light of certain questions which had arisen and it has been agreed that the nutritional requirements of a working class family may be re-examined on the basis of the most authoritative scientific data on the subject.”

5.57. The minimum need-based wage has been differently calculated by different organisations of workmen appearing before me. The All India Bank Employees Association has filed a statement showing what according to the Association would be the amount of minimum wage calculated in accordance with the resolution of the 15th Labour Conference. The amount calculated under the item of food comes to Rs. 143.96, the amount calculated under the item of clothing comes to 11.02 and the amount calculated on account of house rent comes to Rs. 27. The total amount of the aforesaid 3 items comes to Rs. 181.98. The amount in respect of the miscellaneous items being equal to 25 per cent of the above three items comes to Rs. 45.50 the overall total amount comes to Rs. 227.47.

5.58. On behalf of the All India Bank Employees Federation a statement has been filed showing that the amount payable in accordance with the resolution of the 15th Labour Conference in connection with food would come to Rs. 165.96, in connection with clothing would come to Rs. 11.54, in connection with house rent would come to Rs. 30.50 and in respect of the miscellaneous items would come to Rs. 52 making a total Rs. 260.

5.59. The All India State Bank of India Staff Federation has calculated the amount payable in accordance with the norms fixed by the 15th Labour Conference at the working class consumer price index No. 360 in the Series 1939=100, as under:—

5.60. Rs. 81 for food, Rs. 9 for clothing, Rs. 12.50 for house rent and Rs. 25.37 in connection with fuel lighting and miscellaneous expenditure totalling in all Rs. 127.87.

5.61. The Second Pay Commission has dealt at length with the norms laid down by the 15th Labour Conference in Chapter VII of its report. In paragraph 10 it has observed as follows:—

“Thus it seems to us that more important than the fact of quantitative definition of minimum remuneration is the content of what is defined; and an examination of the content and its monetary value shows (a) that the minimum remuneration worked out according to the recommended formula may be of the order of Rs. 125 as compared with Rs. 52.50 which, with some exceptions, is the upper limit of minimum wages fixed under the law; (b) that it would be about 70 to 80 per cent higher than the rates generally prevailing in the organised sectors of industry where wages are fixed either by collective bargaining or through conciliation and adjudication proceedings; and (c) that it would be well above the highest wages i.e. Rs. 112 (in cotton textiles industry in Bombay—average for 1958) which any considerable number of unskilled workers are at present getting in the country. Whether right or wrong, this undoubtedly is a new concept of minimum remuneration. We have considered if a minimum remuneration of this size is at all feasible at the present level of our economic development. The per capita income at current prices has varied during the nine years ending 1957-58 between Rs. 246.90 and Rs. 291.50. Taking a standard family as consisting of four members of whom only one is an earner (this is the standard which the Labour Conference, and others concerned with wages have generally adopted), the average income of a family at the highest figure during the nine years

would work out to Rs. 1,168 per annum, or about Rs. 97 per mensem. The minimum wage cannot be of the order of Rs. 125, when on the basis of the national income the average for a family works out only to Rs. 97 per mensem. It is not that the entire national income is available for current distribution; a good percentage of it must go towards building up of capital assets, without under-going distribution. A minimum wage pitched above the level of per capita income, and intended for very wide application is obviously one beyond the country's capacity; in ignoring the vital need for savings and investment, such a wage gives no thought to the future; and a wage that exceeds the highest level, and far exceeds the general level in the organised industries is obviously not one needed for protecting those whose living standards are sub-average."

The Second Pay Commission has thereafter proceeded to consider the norm of 2700 calories and after having had the benefit of expert opinion on the subject, came to the conclusion that a considerably less number of calories is adequate. In paragraph 16 the Second Pay Commission observes as under:—

"In the preceding paragraphs we have considered whether a minimum wage of the size implied in the fifteenth Labour Conference recommendations is feasible economically and financially, and we have reached the conclusion that it is not. There is, however, a wide gap between the present minimum remuneration of a Central Government employee (Rs. 75) and the minimum in terms of the Labour Conference recommendations which would be of the order of Rs. 125 per mensem".

The minimum remuneration of the order of Rs. 125 stated therein is for the year 1958. It would be very much more today when the working class consumer price index has risen from 116 (1949=100) for the year 1958 to about 126 for the year 1961. Assuming that the figure of Rs. 125 arrived at by the Second Pay Commission for the year 1958 is correct, the amount of minimum wage at the present index figure of 126 would be Rs. 138. If this be the minimum wage contemplated for industrial workers by the 15th Labour Conference, the fair wage would be very much higher. The total remuneration paid at present to the members of the subordinate staff by D Class Banks in area IV amounts to Rs. 40.50 in the first year of service and Rs. 77.50 in the 25th year of service at the working class consumer price index No. 123 (1949=100). A Class banks in area I pay by way of basic wage and dearness allowance and House Rent Rs. 101 to the members of the subordinate staff in the first year of service and Rs. 133 in the 25th year of service at the working class consumer price index No. 123 (1949=100).

5.62. The clerical staff in banks and the members of the supervisory staff who are workmen cannot be regarded as being covered by these recommendations which are applicable to industrial workers. These norms may at best be applied in connection with the members of the subordinate staff. The wages in the banking industry are based on graded scales intended to provide for the growing needs of the workmen as they advance in service. The present scales of wages are intended to provide for less than 3 consumption units in the beginning and for larger consumption units in later years of service.

5.63. The recommendations of this Conference require an enquiry to be made by wage fixing authorities about the prices of various articles of food and clothing. As regards Tribunals which have to adjudicate upon disputes relating to wages for workmen employed in various parts of the country, in order to arrive at a just conclusion, it would be necessary for them to have reliable evidence about the prices of various articles of food and clothing, prevailing at various places at various times of the year for some years before proper averages could be worked out for the country or for the areas in which the country may be divided for the purpose of fixation of wages. It would considerably strain the resources of a party to secure reliable data and lead evidence about the same which could stand the test of scrutiny. So far as I am concerned, I have not before me evidence or data on which reliance can be placed for the purpose of considering what would be the minimum wage calculated in accordance with the 15th Indian Labour Conference formula, for the country as a whole or for the areas in which places in the country are grouped for the purpose of fixation of wages.

(iv) Index Number

5.64. One objection strongly urged against the present scales of wages in the Banking industry is that they are not linked up to any particular base year. The question of base year is intimately connected with the question of the availability of any machinery for gauging the subsequent rise or fall in the cost of living for the purpose of adjusting the wages fixed with regard to a particular year in the light of changes taking place in subsequent years. In this connection I shall first deal with the question relating to index numbers.

5.65. It is necessary to have a proper consumer price index number in order to ascertain the rise in the cost of living of any particular class of people. The present all-India working class consumer price index number is prepared only from the point of view of labour employed in factories. There is no similar all-India index for the middle class from whose ranks the members of the clerical staff in the banking industry are principally drawn.

5.66. It is urged that the consumption pattern of the middle class population is somewhat different from the consumption pattern of workers in factories and that the application of the working class consumer price index number whilst considering the rise in the cost of living of the middle class does not seem to be proper. It is urged that even the consumption pattern of labour employed in factories has not remained stationary since the time when various family budget enquiries were made in connection with the aforesaid index series. It is urged that since the constitution of the all-India index series, several new areas have developed under the successive Five Year Plans, that the pattern of the cost of living at those places has completely changed, that the consumer price index number has not been constructed after conducting family budget enquiries at a large number of places which have now assumed importance, that in the process of averaging, some of the important factors have been omitted and that the all-India consumer price index is on the lower side of the actual price level. The Indian Banks Association on the other hand has submitted that while fixing any wage structure it is not possible to arrive at any mathematical accuracies and that the all-India working class consumer price index is the only index available for adjustment of wages on an all-India basis. It has further submitted that the all-India index is the one to which the dearness allowance payable to employees could or should be linked. It denies that the all-India price index is on the lower side of the actual price level. During the hearing Shri Phadke criticised this index series and urged that this series cannot furnish adequate material for the purpose of using it as an exact instrument which could be pressed into service for the determination of a wage or change in the wage scales. He urged that the consumption pattern cannot be uniform and that in connection with an all-India index it was assumed that if the same commodities of the same quality and the same quantity were consumed today as they were being consumed during the base year of the series, the difference in the cost would be indicated by the index number existing today. He pointed out that in order that index numbers may be of any use it was necessary that the base year should be as close to the relevant period as possible.

5.67. As pointed out by the Second Pay Commission, the component series of the all-India index have varying base periods spread over nearly two decades. The indices for many of the important centres have pre-war bases, ranging from 1926-27 to 1939. The others have war-time bases viz. 1944 or 1943-44. The all-India index is thus, an average of index numbers which have War-time or pre-War bases. The International Conference of Labour Statisticians has recommended that the weighting diagrams of cost of living index numbers should be revised at least once in ten years on the basis of fresh family budget enquiries. By this standard every one of the series included in the all-India cost of living index is out-moded and requires to be replaced. This series was primarily concerned with the needs of labour employed in factories. The centres included in the series do not by any means form representative samples of urban areas. The former State of Bombay is represented by four centres. Uttar Pradesh and Madras are represented by one centre each. The weighting system adopted is not entirely satisfactory. It is based mainly on factory labour employed in various centres. The State average tends to be biased in favour of the larger industrial centres. The weighting pattern is based on the constitution of the provinces as in 1949. Since then there has been a reorganisation of the States without any alteration being made in the weighting system. The constituent series of the all-India index are compiled by different organisations—some by the Central Government and some by the State Governments

and the methods adopted in the compilation of the indices are not always the same. The number of items covered also varies from centre to centre, but the variations do not seem to be based on any uniform principles. Housing group is particularly deficient in all the available indices and miscellaneous group of items has considerable variation. The consumption patterns have not remained stationary since the time, the various family budget inquiries were made in connection with the aforesaid series.

5.68. Shri Phadke, however, is unable to point out any substitute for the series for the purpose of linking the dearness allowance with the rise in the cost of living. The Second Pay Commission has found it necessary to conclude that despite the limitations pointed out by it, the all-India working class consumer price index, currently published "is perhaps the only convenient and suitable tool available for wage adjustments at the national level." The Labour Appellate Tribunal also in paragraph 106 of its decision has remarked that the all-India consumer price index "provides a suitable anchor for the movements of future dearness allowance and can be usefully applied for that purpose". As regards the applicability of this index series to the middle class from which most of the members of the clerical staff are drawn, the Second Pay Commission has observed that the closeness of the series for the working class and middle class population in Calcutta compiled by the State Government suggested that "the effect of the difference in the consumption pattern on the price index is perhaps not as great as is sometimes made out to be".

5.69. The all-India working class consumer price index is the only available barometer for the measurement of the pressure of price changes in the country on an all-India level. It is easy to criticise it but there is no available substitute for it. It has served a useful purpose in the past and will have to render service for the present.

(v) Base Year

5.70. The important question that arises for consideration in connection with the fixation of wage scales in the banking industry is the question of fixing the basic wage with reference to a suitable year as the base year. The Sen Tribunal adopted 1944 as the base year for the purpose of devising the pay-scales. The Sen Tribunal saw great merit in adopting that year as the base year because the Central Government was publishing the cost of living index series for fifteen towns in different parts of India with 1944 as the base year and because for seven towns of Bombay, Ahmedabad, Sholapur, Jalgaon, Kanpur, Nagpur and Madras the respective Governments were publishing the index series with August 1939 as the base, and it was not difficult to convert those series to the base year 1944. Another advantage that the Sen Tribunal saw in adopting 1944 as the base year was that by that date owing to the different rates of increase in the index figures in different parts of India, there was a closer approximation in the actual cost of living than before, so that the differences in dearness allowance at different places, when calculated on the subsequent index figures were not likely to be so marked as they would be if an earlier year was taken as the base year. The Sastry Tribunal did not link its pay scales with any base year. The Labour Appellate Tribunal having noticed this has pointed out that the Sastry Award did not indicate to which year's cost of living it had allied its wage structure and had given no indication as to the point in the cost of living index is relation to which it had fixed its wage scales, that it had not even indicated the percentage of neutralisation provided in giving the dearness allowance and that the Labour Appellate Tribunal had just to consider the total emoluments to enable it to examine the correctness or otherwise of the wage structure devised by the Sastry Tribunal. The Labour Appellate Tribunal itself, has not given any indication in its report of the point of time and the level of the index to which its wage structure was allied. The existing wage structure in the banking industry is not linked to any base year.

5.71. It is urged on behalf of the employees that the basic wage should be linked to some base year and that the subsequent changes in the cost of living should be fully neutralised. The All India Bank Employees Association has claimed that as large a part of the dearness allowance as possible should be merged with the basic pay and that the year 1956 should be the base year when the average all-India working class consumer price index stood at 105 in the series 1949=100. In support of this claim, it is contended that owing to the deficit financing for the Five Year Plans and owing to the large credit expansion and high tempo of development expenditure there was no chance of the cost of living going down below

the level that existed in the year 1956 and that there had been a steady rise in prices since the year 1956.

5.72. The All India Bank Employees Association has also claimed that not merely the workmen should have their basic pay fixed at the level of index number 105 but that they should be given 1% of the basic pay for every rise of one point over 105. When at the time of the hearing it was pointed out that more than 100% neutralisation was implicit in these demands, Shri Sule expressed himself in favour of fixing the year 1949 as the base year instead of the year 1956. The All India Bank Employees Federation by its statement of claim has submitted that the cost of living was not likely to go down to pre-war level nor even to 1944 price level. Some of the organisations of workmen employed in the State Bank of India claimed that basic pay of the employees should be fixed at the cost of living index number 360 in the series 1939=100 when the corresponding number was 101 in the series 1949-100.

5.73. These claims of the employees have been strongly opposed by almost all the banks. They urge that the fixation of pay-scales with reference to the all-India working class consumer price index No. 105 which was the average for the year 1956 in 1949=100 series would be thoroughly unreal, and that the aim of the employees was to have as large a part of the dearness allowance absorbed in the basic pay as possible so that they might secure other benefits in connection with provident fund and gratuity, which were linked up with the basic pay. The Indian Banks Association has in its written statement, in reply to the plea that in order to ascertain the requirements of a worker for the purpose of wage fixation it is imperative to take a particular cost of living figure as the basis of calculation, stated as under:—

“ * * * it is true that for the purpose of wage fixation a particular cost of living figure has to be taken as the basis of calculation but what this figure should be must always remain to some extent a matter of conjecture.”

Amongst the numerous written statements filed on behalf of banks there is one written statement in which it is pleaded that 1949 should be taken as the base year for which the all-India working class consumer price index number was 100.

5.74. In fixing the base year various factors have to be borne in mind. It must be a year in which the cost of living must have reached a point below which, as far as it is permissible to speculate, it was not expected to fall in the near or foreseeable future. It must be a year with reference to which basic wage could be fixed with convenience. On an examination of the trends of variation in the yearly all-India working class consumer price index number, I find that except for the year 1955, when the all India consumer price index number in the 1949 series had gone down to 96 in view of the special conditions prevailing during that year, it has registered a continuous increase. The figure for the month of August 1961 has been 128 and has continued to remain steady since then. When prices fell in 1955 the Government intervened to reverse the down-ward trend and measures were adopted, including revision of export duty in order to support the agricultural prices. It may not be unsafe to assume that in the interest of national economy and the well-being of the people the Government in future also may not permit the prices to fall below that level. In view of the position of the currency, in view of the large expenditure envisaged in the fulfilment of the Five Year Plans and the system of deficit financing, it is not expected in the near or foreseeable future that the all-India consumer price index number in this series 1949=100 will descend to a level below 100. If a situation does arise when there is such a steep fall in the cost of living that the index number goes below 100, it may be open to the parties to ask for a revision of the wage structure.

5.75. While fixing the basic wage in relation to the year 1944, the Sen Tribunal was guided by the Prime consideration that basic pay should represent as large a part of the total emoluments as possible. At the time when the Sen Tribunal was busy devising a wage structure for the bank employees, the index series which were available were mostly those which were linked to the year 1944 or there were series which were being published with base year 1939 which could easily be converted to the base year 1944. At present the Central Government is publishing the all-India working class consumer price index series which has the year 1949 as its base. It has discontinued publication of the series with the year 1944 as its base as the same was considered to be unsuitable as a permanent basis in view of the abnormal conditions prevailing during that year. If, therefore, a base year has to be

devised, it cannot be the year 1944. The year 1939 cannot serve as a base now in view of its distance from the present. All factors favour the acceptance of the year 1949 as the most suitable year for adopting as a base year for the purpose of wage fixation and I adopt the same. This will result in a larger basic pay and a smaller dearness allowance, and the wage structure will present a more realistic picture. The question relating to the desirability of merger of a part of the dearness allowance with the basic pay has been separately dealt with by me later. The objection of the banks to the merger of any part of the dearness allowance with the basic wage on the ground of the increase in the burden that may take place in connection with provident fund and gratuity can be met by suitable provisions which may prevent increases therein except to the extent intended.

(vi) Consumption Units

5.76. The question of pay scales is intimately connected with the question relating to the number of "consumption units" for which provision is to be made thereby.

5.77. Without intending to lay down a rule or formulate a definite principle, the Sen Tribunal believed that it was not likely to be much mistaken if the requirements of an employee in the first year of his service were taken as corresponding to 2.25 consumption units. The Sen Tribunal also considered that in the 8th year of his service an employee has to maintain three consumption units and that towards the end of his service he would have to maintain four consumption units.

5.78. The Sastry Tribunal, however, held the view that the proper method was to provide for an employee and his wife at the initial start and then provide for reasonable increments for the growing needs of himself and his family including children that are likely to be born. Calculating in accordance with the Lusk coefficient, the Sastry Tribunal took the view that the consumption units should be taken at 1.8 at the initial start. The Sastry Tribunal said that if the generally accepted view that under the Indian conditions a person has in the 8th year of service a wife and two children should prevail the consumption units in the 8th year of service will come to 3 but in view of the statistics placed before it with reference to the employees of certain banks and the figures which appeared in the census reports it was stated that quite an appreciable number of people remained unmarried even in the age group 25 to 30 and that it was only in the age group 30 to 35 that single men were rare. The Sastry Tribunal considered it more appropriate to take the 10th year of service as the proper stage in which 3 consumption units should be allowed.

5.79. The Labour Appellate Tribunal strongly criticised the Sastry Tribunal's approach and the conclusion in this connection. In paragraph 63 of its decision it has stated as under:—

"We have to take a common sense view of these matters. * * * Wages are necessarily fixed in accordance with the normal expectations of family life even though a particular workman may never marry nor have any dependants. The Sastry Tribunal seems to take the view that only 1.8 consumption units should be provided for at the start, that is, a family of 2 persons, namely, the employee and his present or future wife, and that is less than what has been accepted by the Special Benches of the Labour Appellate Tribunal. We consider the Tribunal's approach to the subject as too narrow in the context of the middle class social and economic conditions of our country whatever may be the circumstances in other parts of the world where family life is less cohesive."

The Labour Appellate Tribunal also observed that if 3 consumption units were to be taken as the mean, 2.25 consumption units would be a satisfactory start. It decided that provision for 2.25 consumption units was a reasonable method of calculating the measure of a young man's responsibility at the start. The Bank Award Commission has considered the criticism levelled by the Labour Appellate Tribunal against the views expressed by the Sastry Tribunal on the question of consumption units as fully justified.

5.80. On behalf of workmen it was contended that wages should be so fixed that a provision was made at the start for 3 consumption units. In support of it reliance was placed on (i) the norms laid down by the 15th Indian Labour Conference, (ii) the size of the family of members of the working class taken by the various enquiry committees, (iii) the recommendation of the Committee on Fair Wages

and (iv) consumption units as revealed by the various family budget enquiries conducted by Shri S. R. Deshpande in 1944. Reliance was also placed on certain enquiries conducted by private agencies in respect of the living conditions of middle class employees in certain places in the Cities of Bombay and Baroda. A statement has also been submitted in connection with the average size of a working class family in various centres in India in the pre-war period. Shri Phadke, has submitted that workmen's needs must be stabilised at 1.6 consumption unit at the start and in no case it should be taken as more than 1.8 consumption units at this stage of the service of a workmen. He traced the genesis of the theory of 2.25 consumption units at the start to the Sen Award and strongly criticised the material on which this decision was taken by the Sen Tribunal. The banks have tried to collect some material on this subject. The material placed before me, though it may throw some light on the problem is not sufficient and cannot be relied upon for the purpose of deciding the size of the average family of a workman in the banking industry at the start. The Committee on Fair Wages decided that "if the standard family was reckoned as one requiring three consumption units and providing one earner, the decision would be in accord with the results of the family budget inquiries." The 15th Indian Labour Conference has also provided the norm of 3 consumption units. I have already stated earlier while dealing with the resolution of the 15th Labour Conference that this norm is the standardized norm for calculating the wages of an employee throughout the period of his service. Where incremental scales of wages have been provided, and the growing needs of a workman at various stages of his service have to be considered the standardized form which represents the average need of a life time cannot be made the starting point when the need is less. In the absence of sufficient evidence on the subject, I see no reason to differ from the decision of the Labour Appellate Tribunal that 2.25 consumption units would be a satisfactory starting point for an employee for whom it is intended to devise a pay scale.

(vii) Co-Efficient

5.81. Another question of importance in connection with scales of pay relates to the extent of the difference in the cost of living between the members of the subordinate staff and the members of the clerical staff. The 80% co-efficient is sometimes applied for determining the remuneration payable to members of the clerical staff after determining the amount of remuneration payable to members of the subordinate staff. The genesis of the 80% coefficient can be traced to the award of Justice Rajadhyaksha in the dispute between the Posts and Telegraphs Department and its non-gazetted employees. The way in which Justice Rajadhyaksha arrived at the co-efficient is stated in para 148 of his award as follows:—

"In 1922-24 there was a middle class family budget enquiry in Bombay and it was found that a family consisting of 4.58 persons spent Rs. 138-5-0 per month. *But the average expenditure of the middle class family in the lowest income group (having incomes between Rs. 75 and 125) per month was Rs. 103-4-0. In 1923 the cost of living Index figure was 155 whereas in 1938-39 it was 104. According to these index numbers the cost of living of the same family would be $\frac{103 \times 104}{155} = \text{Rs. } 69$ in 1938-39. The lowest income group in the middle class budget enquiry consisted of 3.29 consumption units. Therefore for an average family of 3 consumption units, the expenditure required in 1938-39 would have been $\frac{69 \times 3}{3.29} = \text{Rs. } 63$. According to the findings of the Rau Court of Enquiry a working class family consisting of 3 consumption units required Rs. 35 for minimum subsistence. It follows therefore that the proportion of the relative cost of living of a working class family to that of a middle class family of 3 consumption units is 35-63, i.e. the cost of living of a middle class family is about 80 per cent. higher than that of a working class family."

The family budget enquiry which constitutes one of the pillars on which this co-efficient rests was started in July 1922 and was completed in August 1924. The total number of family budgets collected was 2000. In addition, 125 single men's budgets were also collected. Out of the 2000 family budgets, 252 were rejected owing to their incompleteness and doubtful accuracy. Only 1748 budgets were accepted for final tabulation. This enquiry was conducted by the Labour Office Bombay. It was restricted to middle class persons having fixed and ascertainable incomes. The enquiry was confined to families with an income of not less than Rs. 50 and not more than Rs. 700 per month. When the tabulation of the data was, however, undertaken, it was found that the number of budgets in the lower

(i.e., below Rs. 75 per mensem) and the higher (i.e. above Rs. 225 per mensem) income classes were comparatively few and so in order to make the sample more homogeneous and the results more representative, it was thought better to deal in the report with the budgets falling within the income classes of Rs. 75 to Rs. 225 per mensem. Accordingly 1325 out of the 1748 budgets were considered for the purpose of that report. The classification of these budgets by income classes was as follows:—

Monthly income of family	No. of families	Percentage to total.
Rs. 75 and below Rs. 125	524	39.6
Rs. 125 and below Rs. 175	508	38.3
Rs. 175 and below Rs. 225	293	22.1
All incomes	1325	100.0 "

The group percentage expenditure of the Bombay Middle Class was found as follows :—

Groups	Percentage expenditure on each group.
Food	43.4
Fuel and lighting	5.5
Clothing (excludes bedding)	10.4
Bedding and household necessities (includes beddings, cooking utensils, etc.)	2.5
House Rent	14.8
Miscellaneous (including remittances to dependants).	23.4
	100.0

From this enquiry conducted in a place like Bombay in the year 1922—24 on the one hand and the Report of the Rau Court of Inquiry appointed in the year 1940 confined to the staff of the G. I. P. Railway in relation to investigation concerning the question of dearness allowance on the other, is built up the co-efficient which is sought to be applied by Industrial Tribunals in respect of all-India adjudications. Justice Rajadhyaksha himself was conscious of the difficulties which he was experiencing. In paragraph 148 of his report, he has stated as follows:—

"So far as the middle classes are concerned the difficulty is very considerable. There have been no official family budget enquiries with respect to lower middle classes and the non-official enquiries have not arrived at any particular figure as representing the present day cost of living for the lower middle classes."

5.82. In the Sen Award, it has been stated at page 30 as follows:—

"It seems to us very likely, particularly in view of the increase in the income of the working classes in most towns since 1939, that the co-efficient applicable today is appreciably less than 80%."

The Sastry Tribunal in dealing with the co-efficient has observed in paragraph 216 of its award as follows:—

"Mr. Seervai urged that the co-efficient method was erroneous, that though the patterns of living keep on changing in both the classes they do not change in the same direction or to the same extent and that no constant co-efficient would be disclosed by different budget enquiries. We

certainly cannot take the 80% co-efficient as proved or established because it is derived from a so-called casual relation between the expenditure of a working class family and the expenditure of a middle class family as disclosed by family budget enquiries. It is but a single incident and we cannot say whether the relationship is casual or a mere co-incidence, a chance correspondence between two sets of figures. In Mr. Seervai's view with no subsequent enquiries to confirm or it may be to contradict we cannot accept the 80 per cent co-efficient as established. The co-efficient figure seemed to enquiries to confirm or it may be to contradict we cannot accept the 80 per cent co-efficient as established. The co-efficient figure seemed to. Thus the principle of the co-efficient threatened to become more and more vague and more and more of a guess-work. Even the attempt to buttress the principle by an appeal to figures at which working class budgets balance did not succeed, for budgets very nearly balance even above or below the limits so chosen and we do not know where to draw the line for budget balancing or how to provide for the very human tendency to over-estimate expenditure and under-estimate expenditure."

5.83. In paragraph 218 it has been further observed as follows:—

"The Central Pay Commission fixed Rs. 90 per mensem as the minimum wage for middle class employees and Rs. 55 for the subordinate staff. The co-efficient would work out at about 64 per cent. * * * It is common knowledge that the gap between lower middle class and the working class is narrower now-a-days. In these circumstances, it is proper to hold that the co-efficient may well be taken to be not more than 66 2/3 per cent. We must, however, frankly concede that this is merely an approximation by us and we cannot claim for it a scientific justification on the basis of reliable statistics for the reason that such statistics are not available...."

5.84. In dealing with this matter the Labour Appellate Tribunal in paragraph 68 of its decision has observed as follows:—

"It occurs to us that if in fact the gap between the income of the lower middle class on the one hand and the working class on the other has been narrowed by increases in the latter's wages the more appropriate inference would be that the wages of the lower middle class have not received increases to which they were entitled. In so far as the basic wages are concerned, in the case of many commercial firms the co-efficient is a good deal higher than 1.80; and even if we take the total emoluments in the major industries in Bombay or Calcutta the co-efficient would be found generally to be not less than 1.80. The Central Pay Commission too seems to have accepted the 1.80 co-efficient; for while it gave to the subordinate staff a starting basic salary of Rs. 30 it fixed the wages of the clerk at the initial stage at Rs. 55 which means a co-efficient of 1.80. It was therefore unwise of the Sastry Tribunal in the absence of statistics to negative a co-efficient which has been so generally accepted *** we are clearly for the view that in the absence of any definite investigation or statistics the 1.80 co-efficient should be maintained; for it has been an accepted co-efficient adopted after deliberation and has not been displaced by any organized enquiries."

5.85. The Second Pay Commission in paragraph 13 of Chapter X of its report has, in connection with any co-efficient observed as follows:—

"We have considered whether there should be any direct, rigid, relativity between manual and clerical staffs, and we have come to the conclusion that the acceptance of any such relativity will be incompatible with the principles for determination of remuneration of Government servants which we have adopted. * * * in the United Kingdom while the clerical officer had had an increase of about 63 per cent between 1939 and 1954-55, the messenger had an increase of 90 per cent during the same period. But as against that, during the last 2 years the wages of clerks have risen more than those of manual workers. We have not, therefore, sought to determine the pay of clerical and other similar staffs with reference to that of manual workers, but have considered independently what, in the present conditions, would be fair remuneration for each."

5.86. The All India Bank Employees Association has pleaded that it did not accept the Rajadhyaksha co-efficient of 80% as adequate and that it was of the opinion that for middle class employees the co-efficient cannot be less than 120%. It has further added that even if 80 per cent was accepted as a proper co-efficient the bare minimum wage for a middle class employee would be higher by this percentage. The Association has stated that it has been admitted by all the adjudicators that the minimum wage of a middle class employee should be substantially higher than that of a subordinate employee. It has pleaded that this difference was mainly to account for the cost of education, skill acquired, the multifarious social obligations and the characteristic ways of living of a middle class employee that a middle class employee was called upon to meet along with higher responsibility, obligations which an industrial worker was usually never called upon to meet and that it has been now universally accepted that a considerable co-efficient has to be added in the case of middle class employee to the cost of living calculated for the industrial worker.

5.87. The All India State Bank of India Staff Federation and the State Bank of India Staff Union, Andhra Pradesh, have pleaded that the minimum cost of living of a middle class family is much higher than that of a working class family, that the cost of education has risen to abnormal proportion and parents have to expend considerably on the education higher secondary and college—of their children, that the expenditure on clothing by employees recruited to the ministerial and skilled cadres is far higher than that in a working class family, as such employees are required to appear neatly dressed in the office and maintain decency and decorum in dealing with the public, that the miscellaneous expenditure in the family budget of middle class employees is considerable and is far in excess of that in a working class family and that the minimum wage for a clerk was to be obtained by multiplying the minimum wage of the lowest paid worker by the Co-efficient of 1.80. The South Gujarat Bank of Baroda Employees' Union has stated as under:—

"To find out the minimum requirements of a middle class employee on the above basis, we have to put them approximately @ 70% above the standard of a worker. It has been admitted by several authorities that this difference should be 80% but we felt to scale down the difference and to put it at 70%."

The All India Bank of Baroda Employees Federation has pleaded that the need of a clerical employee has been estimated according to all expert opinions at varying degrees and the Federation felt that 70% higher wages should be fixed for a clerk than those of a subordinate.

5.88. The Indian Banks Association has submitted that the co-efficient method was erroneous in that though the pattern of living kept on changing in both classes they did not change in the same direction or to the same extent and there could be no constant co-efficient. It denied that for middle class employees the co-efficient could not be less than 120% and also disputed the correctness of 80% as a proper co-efficient.

5.89. The Bombay Exchange Banks Association has pleaded that the very concept of co-efficient should disappear. It also denied that it had now been universally accepted that considerable co-efficient had to be added in the case of middle class employees to the cost of living calculated for the industrial worker. The State Bank of India has submitted that it would be an extremely illusory and incorrect method to arrive at the wages of middle class employees by a process of arithmetical calculation, viz. by applying a co-efficient. The Northern India Banks Association has submitted that no mechanical formula such as that of 80% or 120% co-efficient would satisfy the test of either equity or practicability. It agreed that there should be some difference between the wages of unskilled workers in the banks such as peons and those belonging to clerical cadre. It has stated that the only way of equitably determining the difference was to compare the total emoluments of these two classes with those of corresponding workers in other comparable establishments in the same areas.

5.90. Shri Phadke has strongly criticised this 80 per cent co-efficient and the foundation thereof. This formula rests on the findings of the Rau Court of Enquiry constituted in the year 1940 in connection with a working class family of 3 consumption units requiring Rs. 35 in Bombay City by way of minimum subsistence. In paragraph 75 of the report of the Rau Court of Enquiry itself, a note of caution has been sounded in the following terms:—

"... in order to determine what classes of employees should be granted a dearness allowance, it is necessary for us to draw, roughly and

with the aid of such materials as may be readily available, what has been called a "poverty line", between incomes that are above subsistence level and incomes that are not. For this limited purpose, no great precision is required: the amount of the dearness allowance we propose to recommend is comparatively small and even if we err in drawing the line, whether on one side or the other, the error is not likely to cause grave inconveniences. We shall, of course, endeavour to do our best with the materials at our disposal; but further materials may show that our estimates are too high or too low. We only wish to emphasize that these estimates, necessarily diffident, are for the limited purpose of deciding at what level of income a war dearness allowance should be given at the present time and our references in this report to the "poverty line" or the "subsistence level" or the "efficiency level" are not to be construed in any larger sense."

In the absence of any better material, some of the subsequent Tribunals do not seem to have paid any heed to this caution.

5.91. This co-efficient is also founded on the middle class family budget enquiry held in the year 1922/24. In order to correlate the findings of different inquiries held at different times in connection with different classes of men the figure of Rs. 103-4-0 being the average expenditure of a middle class family in the lowest income group having income between Rs. 75 and Rs. 125 per month in the years 1922/24 has been projected to the year 1938-39. It is stated in the Rajadhyaksha award that the cost of living index figure in 1923 was 155 whereas in 1938-39 it was 104 and that according to these index numbers the cost of living of the same family would be $\frac{103 \times 104}{155} =$ Rs. 69 in 1938-39. The index figures viz, 155 and 104 have been taken from two different index number series. The figure of 155 is taken from the series which was started with the year 1914 as the base year. The other figure viz. 104 has been taken from the series started in 1933-34.

5.92. Shri Phadke has criticised the accuracy of this method of conversion, stating that to arrive at the correct results, it would be necessary not merely to have the same basket of commodities, but the same pattern of consumption, that in fact, the quantities for the two series were not the same, that the pattern of consumption for the base year had changed, and that the 1914 series was a series prior to the first world war while the 1933-34 series had been formulated after the great depression which had occurred in the thirties. He submitted that the comparison of these figures could not possibly yield any intelligible results. He pointed out that while the Labour Appellate Tribunal decision laid down that the co-efficient should be 80%, while fixing wage scales for the subordinate staff and the clerical staff this co-efficient of 80% was not adhered to. Statements have been filed before me showing that the co-efficient varies from stage to stage, from class to class and from area to area.

5.93. In the year of grace 1962 this Tribunal is in no better position than the earlier Tribunals who have dealt with the matter. The inherent infirmities in this co-efficient have been pointedly referred to before me. I am not at all certain whether I would be very much wiser by an enquiry which may be conducted at present. Expenditure is conditioned by the income received by the class of persons whose expenditure is being considered. By and large, over a period of time, expenditure cannot exceed the income. The only pattern which such inquiry may reveal may be a pattern based on the income of the class of persons whose case is being considered.

5.94. When emphasis is being placed on a need-based wage and when the needs in respect of food are correlated not to the quantum of food actually consumed or the actual pattern of such consumption, but on the food which ought to be consumed having regard to the physical needs of the individual, the special needs of the middle class in connection with not merely food but all other articles of consumption require to be investigated and norms are required to be evolved which would satisfy the social and economic needs of the middle class. I am in the unfortunate position of not having such material before me.

5.95. Where proper inquiries have been conducted into the needs of both the working class and the middle class, it does not become necessary to resort to any co-efficient. It is only when material exists about one class and not the other, that it becomes necessary to resort to a co-efficient. In the present state of the

record, I am unable to arrive at any co-efficient myself and cannot see my way to effect any changes in the existing co-efficients which may be regarded as substantial whilst considering the total emoluments of different classes of workmen employed in A, B, and C Classes of banks in Areas I, II and III under this award.

5.96. The ingredients of a pay scale generally are its minimum and maximum, the span, that is the period of time requisite to reach the maximum, the increments provided and the efficiency bar where imposed.

(viii) **Ratio between the Minimum and Maximum in Pay Scales**

5.97. It is nobody's case that there should be a uniform pay for the workmen employed in banks from the commencement till the conclusion of their service. There is, however, a controversy as regards the ratio which should subsist between the minimum in the scale and the maximum thereof.

5.98. In the Sen Award the difference between the minimum and the maximum basic wage for clerical staff may be taken to be about 1:3 while for subordinate staff it may be taken to be about 1:1.5

5.99. In the Sastry Award as modified the ratio of minimum basic pay and maximum basic pay for clerks in A Class banks in Area I is 1:3.3. In other classes of banks also it is by about the same. As regards the subordinate staff the ratio for A Class banks in Area I is 1:1.8 and for other classes of banks it is about 1:2.

5.100. The All India Bank Employees Association has claimed that so far as the clerical staff is concerned "the difference between the minimum and maximum in the same grade should be approximately 2½ times." In the case of the subordinate staff from the pay scales demanded it appears that the ratio between the minimum and the maximum is required to be 1:2. The Indian Banks Association has contended that there is no cogent reason given why the difference between the minimum and the maximum in the same grade should be approximately 2½ times for the clerical staff. The Bombay Exchange Banks Association has also taken the same stand as the Indian Banks Association.

5.101. There is no uniform rule so far established in connection with the difference between the minimum and the maximum in connection with scales of pay. There are various factors which may affect the same. An incremental pay scale is intended to provide for the growing needs of a workman as he advances in age. It is intended to provide for his increased knowledge, experience and efficiency acquired in the course of his service and also to provide him with a saving wage in the later years of his service. The capacity of the industry and the wages in comparable concerns have a part to play. No scientific or logical reason is given for the suggested differences between the minimum and the maximum of the scale of pay for the clerical staff and the subordinate staff. The demands made by the All India Bank Employees Federation reveal the difference of 1:3.3 between the minimum and maximum so far as clerical staff in A Class of banks is concerned. Similar ratio for B Class banks is 1:3.8.

5.102. Having regard to the method adopted by me in constructing wage scales which will appear later, it is not necessary for the purpose of this award to decide what theoretically should be the difference between the minimum and the maximum of the wage scales in an industry like banking.

(ix) **Span**

5.103. I shall next deal with the question of Span.

5.104. The span of incremental scales of pay fixed by the Sen Award was 25 years. The span provided by the Sastry Award is also 25 years, for both the clerical and the subordinate staff.

5.105. The All India Bank Employees Association has demanded that the span should be 20 years for both the clerical and subordinate staff. It has demanded separate scales of pay for workmen discharging duties of a supervisory nature with a span of 9 years.

5.106. The All India Bank of Baroda Employees Federation has claimed that in every class of bank for each category of employees there should be a graded scale of pay with a span of 20 years.

5.107. A more or less similar demand has been made by other organisations of workmen.

5.108. The Indian Banks Association has in its reply, stated that 25 years is the normal span of incremental scales for employees in the country and that the same should be retained. It has submitted that this Tribunal has no jurisdiction to lay down any terms or conditions of service including scales of emoluments for those employed in a supervisory capacity who draw emoluments exceeding Rs. 500 per mensem or who exercise either by the nature of the duties attached to the office or by reason of the powers vested in them functions mainly of a managerial or administrative nature as such employees would not be "workmen" within the meaning of the Industrial Disputes Act and would hence be outside the present adjudication. The Bombay Exchange Banks Association has contended that the claim made by the All India Bank Employees Association is untenable and should be rejected. It says that the whole scale should span at least 25 to 30 years. It is further pleaded that the 20 years span demanded by the workmen for the clerical and subordinate grades would mean that an employee joining at the age of 18 would reach the top of the scale at the age of 38 and that if he were to retire as demanded at the age of 60 years, then he would receive no increment for the last 22 years of his service and a realisation of this fact would mean that the employee would not strive to improve his efficiency or take interest in his work.

5.109. The Northern India Banks Association has stated that ordinarily a bank clerk starts his career at the age of 18 to 21 and as the retirement age for him has been fixed, under the existing Award, at 58, the scales framed should extend for a period of at least 35 years, for if the maximum is reached earlier, a sense of discontent and dissatisfaction is needlessly produced at a time when the employee has yet to go many years.

5.110. The banks on the whole, have opposed the employees' demand in this connection.

5.111. In support of the contention that the span should be 20 years, reliance has been placed on behalf of the employees on some of the awards where the span has been 20 years, and on the award in Burma Shell Refineries, where the span has been reduced from 20 years to 16 years. (Industrial Court Reporter, October 1958 issue page 1067). It was also stated that there were cases where the span was still shorter.

5.112. In the course of the hearing it was argued on behalf of workmen that if a workman reaches his maximum at the 20th year of service, he would derive other incidental benefits. The amount to the credit of his provident fund which constitutes his saving would increase. It was argued that between the ages of 42 and 50 a man's responsibilities were the heaviest. His son may be going to college and his daughter may have to be married. It was urged that it was necessary that during this period he should enjoy the maximum salary in the scale. It was also argued that during the peak years of his service a man should get increments more often.

5.113. Shri Phadke on behalf of the Indian Banks Association urged that if the maximum in the scale of pay was reached at an early stage, it would cause a sense of frustration among the workmen for number of years of their lives when they stagnate having reached the maximum in the span and that it would result in loss of efficiency and indifference to work. He urged that if a workman after joining service had to remain in service for 35 years, he would, for over 15 years, not receive any increment at all and that 15 years was an unduly long period of time during which an employee should get no increments at all. The number of years during which he might not receive any increment may even be greater where a workman joins early and superannuates at the age of 58. He further urged that the reduction in span would increase the establishment charges of banks, as the provident fund contribution would be proportionately higher. He urged that the basic wage structure was one integrated whole and every aspect of it whether visible or not on the face of it was inextricably connected with the other and that the real value of the wage structure depended upon the total effect of these inter-acting aspects so that any material change in one was liable to lead to a change in the whole. He stated that the Sastry Tribunal and the Labour Appellate Tribunal had in mind a 25 years scale and the liabilities to be imposed on the bankers included a 25 years span as a salient feature of the scale. He summed up his argument by saying that with the result of the reduction of the span, the cost to the banks would be higher, the return

to the banks by way of efficiency in work may be lesser and there was bound to be some element of discontentment in the minds of senior employees for want of increments. He filed a statement showing the financial implications of shortening the span of a scale of pay from 25 years to 20 years on the footing that the existing minimum and the maximum would continue unchanged. The statement shows that it would result in an increase of total emoluments by 7.2 per cent.

5.114. There is considerable force in some of the arguments advanced by Shri Phadke. A reduction in the span would lead to an increase in the wage bill and have its repercussions on the provident fund contribution to be made by banks. Workmen who have reached the maximum in the scale would stagnate for a longer period, the efficiency bar would be crossed earlier and the incentive to continue to remain efficient would be less. A span of 25 years in a service which may last upto 58 years is not unduly long.

5.115. Having considered all aspects of the matter, I do not consider it proper to accede to the demand of the workmen to reduce the span from 25 years to 20 years either for the members of the clerical staff or for the members of the subordinate staff.

5.116. As regards workmen supervisors, I am not providing separate scales of pay for them as stated later and it is not necessary to consider the question of providing a separate span for them.

(X) Increments

5.117. While considering the pay scales the Sen Tribunal observed that increments should normally show a rising trend. The Sastry Tribunal has stated the following in respect of increments :

"A time scale of wages with annual increments is now recognised to be the normal pattern of a wage scale. It is no longer necessary to give elaborate reasons in justification of this system. The growing needs of the workmen's family, the greater experience and improved efficiency of the workman that comes with length of service in the industry and the desirability of a provision for a saving wage, if possible, after a fairly long period of service are recognised to be good reasons for having a time scale with increments. Besides, there is a valuable psychological effect on the mind of the employee when he is assured that for normal increments he is no longer dependant on the whims of his superior officers, which perhaps would be the case if there were no regular scale."

The Sastry Tribunal in paragraph 85 of its Award directed as follows:--

"Increments should normally be given and stoppage of increments by managements should be only by way of punishment for proved misconduct or gross inefficiency. As a working rule, if in the previous year there are three adverse remarks in the service register of the workman entered against him as a result of the management's enquiry into his conduct and after consideration of any explanation given by him, it may be taken as a *prima facie* case for stopping the increment at the next stage and for the next year. If an employee's increment is to be withheld, it should only be done after a proper charge-sheet has been framed against him and he has been given adequate opportunity to defend himself. The order in writing withholding the increment should also mention whether it will have the effect of postponing future increments."

5.118. In connection with the general withholding of increments of one and all employees during any particular year due to exceptional circumstances, such as dwindling of profits and the substantial diminishing of prospects of good business, the following directions were given by the Sastry Tribunal:—

"Annual increments for any particular year may be stopped at the discretion of the bank if the ratio of its gross profits to the working funds during the previous year is less than 75 per cent of the average of similar ratios for the four years immediately preceding that previous year provided however

- (1) no discrimination is made amongst the employees of the bank in the matter of withholding the annual increment and that withholding of the increment applies to the entire staff of the bank consisting of all its officers and the clerical staff (subordinate staff being excluded).
- (2) there shall not be any withholding of increments more than once in any consecutive period of four years."

The Labour Appellate Tribunal slightly altered this direction of the Sastry Tribunal by directing that "the general stoppage may only be allowed if the ratio of gross profits to working funds of the previous year is less than 50 per cent of the average of similar ratios in the four immediately preceding years."

5.119. The All India Bank Employees Association submitted that the increments in the grades should be automatic and that part-time employees should also be granted 50 per cent of the rate of increment annually as demanded for a full time incumbent. The banks have in general opposed these demands. The Northern India Banks Association has replied by saying that the grant of increments should not be automatic but should rest on the record of the work done by the employees during the year and the management should have the right to withhold the increment if the work of the employee falls below a certain standard. The Jaya Laxmi Bank is against automatic grant of increments in the grade scales and considers that should depend upon the efficiency of the employee concerned and the management must have a right to review the work of each employee while the question of annual increment is being considered.

5.120. In the course of the hearing, a reference was made to the statements which appear at pages 36 to 38 in the Report of the First Pay Commission about the system of time-scales with increments. The First Pay Commission has observed that "one of the objects of increments being the provision of means to enable an employee to meet his increasing responsibilities and expenditure as he grows in age, the problem would be simpler if the scheme of providing children's allowance and other special allowances asked for by some associations could be adopted." Later on the Commission has stated that the granting of increments has a two-fold significance, one from the point of view of the employee, viz., that as he grows in age he has greater responsibilities to meet, and another from the employer's point of view, viz., that even when a man continues in the same grade, his work improves in quality and his efficiency also increases as a result of his experience. Employees have filed statement showing the rates of increments provided for the members of the subordinate staff and the clerical staff in certain commercial concerns. Shri Phadke argued that increments should be small to begin with, progressively increasing in quantum and becoming largest at the end. This method was not followed in the case of subordinate staff in the banks as there were increments of Rs. 2 in the beginning and Re. 1 in the end, owing to considerable difficulties involved in adjustment, if this system was reversed. He also urged that the banks should have the power to withhold increments in certain circumstances either in a given case or as a whole.

5.121. The directions given by the Sastry Tribunal are fair. They have also been considered by the Labour Appellate Tribunal and apart from the amendment already referred to they have been retained.

5.122. I have considered the total emoluments received by workman throughout the span period and in fixing pay scales and providing increments I have taken all relevant factors into consideration. As regards the granting stoppage and the withholding of increments I give the same directions as those given by the Sastry Tribunal as modified by the decision of the Labour Appellate Tribunal.

5.123. The next question that arises for consideration is that relating to efficiency bar.

(XI) Efficiency Bar

5.124. The Sen Award in paragraph 112 provided for one efficiency bar at a fairly late stage in an employee's career. It directed that an efficiency bar should be placed between the seventeenth and the eighteenth year of service in the case of all employees. It observed that efficiency bars existed in government service and had been inserted in nearly all awards relating to scales of pay made by Industrial Courts and Tribunals.

5.125. In the Sastry Award an efficiency bar has been placed at the 20th year of service of an employee both in the clerical grade and the subordinate grade. In the opinion of the Sastry Tribunal it was sufficient to have one efficiency bar in an employee's career.

5.126. The matter in relation to efficiency bars has been discussed at considerable length in the Labour Appellate Tribunal's decision. In connection with the imposition of an efficiency bar, the Labour Appellate Tribunal has observed in paragraph 174 that the imposition of one or more efficiency bars in a running time scale of wages had been considered a necessity since the date of the Islington Commission (Report of the Central Pay Commission, para. 60) and that it was a well recognized adjunct to a wage structure, and has been adopted by the government and also by quasi-government and industrial establishments and had been applied by Industrial Tribunals. It has quoted with approval the remarks of the First Pay Commission, where it has been observed as follows:—

"We are not prepared to ignore the fact that right down from the time of the Islington Commission, all responsible authorities have regarded the principle of the efficiency bar as an indispensable part of the time-scale system, if it is to work satisfactorily....."

In the Labour Appellate Tribunal's decision arguments advanced against the imposition of efficiency bars have been fully dealt with. In order to allay apprehensions in the minds of the workmen, the Labour Appellate Tribunal has laid down the following conditions in connection therewith in paragraph 177 of its decision:—

- "(a) The efficiency bar shall be at the end of the normal 20th year stage in each scale.
- (b) The efficiency bar shall be applied very sparingly. The general test should be whether the employee's work has fallen below that standard of efficiency normally expected of him at that particular stage of his career when the efficiency at the start has been reinforced by the experience from which he should have profited.
- (c) The circumstances necessitating the proposed imposition of the bar shall be communicated to the employee, and the employee shall be given an opportunity to submit an explanation which shall be duly considered.
- (d) An efficiency bar once imposed shall be reviewed every year, and before it is continued the employee shall be given an opportunity to make such representation as he desires. Reasons for continuation of the bar shall be recorded.
- (e) If the workman held up at the efficiency bar improves, he may be allowed to cross the bar and at the discretion of the management may even be placed at such stage in the running time scale as he would have attained if he had not been held up. In such case the workman shall not be entitled to claim any arrears on the basis as if there had been no bar."

The Labour Appellate Tribunal saw no reason to exclude the members of the subordinate staff from the operation of the efficiency bar.

5.127. The Second Pay Commission has provided for two efficiency bars. The Second Pay Commission in imposing the efficiency bars has observed that it was ordinarily through efficiency bars that a practical discrimination between satisfactory and unsatisfactory workers could be made and that they had, therefore, usually provided an efficiency bar somewhere about the 10th year in scales which were to run for more than 15 years or so, and a second efficiency bar at a later stage in scales which were to run for 20 years or longer.

5.128. On behalf of the workmen a claim has been made that increments in the grades should be automatic and that there should not be any efficiency bars whatsoever. It is contended that the scales are formulated on the basis of needs of the employees, that the needs grow with the passing of time and that with the passing of time "the employee's skill and intelligence grow to the advantage of the employer". It is submitted that the efficiency bar was unnecessary in view of the fact that the employees after putting in considerable length of service gain both experience and efficiency and that the efficiency bar laid down at the end of 21 years of service in the last awarded scale was of no use, as at the end

of so many years, no question of efficiency could justifiably arise. It is also stated that efficiency bar might be used to the detriment of the employees. It was therefore, submitted that no efficiency bar at any stage be put.

5.129. The Indian Banks Association has submitted that it was erroneous to assume that the skill and intelligence of employees grew to the advantage of the employer with passage of time. It has further pleaded that the management should have the right to see that the workmen keep up the normal standard of efficiency and not lapse into indifference and inefficiency because of the assured prospect of an incremental scale. It is further pleaded that the provision in the Sastry Award for only one efficiency bar at the end of the 20th year of service had been found to be inadequate and ineffective. It is pleaded that in normal circumstances the management is able to find out whether a particular clerk will turn out to be good within a period of about the first five years and it is suggested that the first efficiency bar should be placed at the 5th year of service. It is further submitted that such a course would be advantageous not only to the employer but also to the employee, because he could have a chance to reconsider whether he had taken up the right occupation and could easily switch over to some other walk in life whilst he was still young if the efficiency bar was applied to him at an early stage in his career. It is further suggested that a second efficiency bar should be placed at the 10th year of service so as to discourage the employee from lapsing into inefficiency and a third efficiency bar should be applied at the 15th year of service. It is submitted that "having only one efficiency bar and that too at a late stage in the scales works as a damper to a really efficient employee because he has no inducement to turn out better work, feeling that he would be treated on a par with his colleagues in the matter of increments irrespective of higher efficiency or superior capacity to turn out better quality of work."

5.130. The Bombay Exchange Banks Association has pleaded that the question of a workmen's needs and the question of his efficiency were entirely different concepts. It has pleaded that if the workmen was lulled into the belief that he need not worry about his efficiency being tested and assessed throughout his career and that he would continue to the end of his scale irrespective of his efficiency, a bank would not have a good employee in him. It is submitted that so far as a bank is concerned, in the absence of an efficiency bar, in the event of the bank coming to the conclusion that the workman was inefficient, it would have no option but to dispense with his service, whereas, if there was an efficiency bar, the workmen may be kept at the stage of the bar until his efficiency improved rather than have his services dispensed with. It is further submitted that there should be two efficiency bars in both the clerical and subordinate grades, "one in the earlier part of the scale (say, 5th or 10th year), and the other in the second or later part of the scale (say, 15th or 20th year.)"

5.131. The State Bank of India has pleaded that it would be a retrograde step to abolish efficiency bars as the existence of such bars was in the interest of both the employer and the employees.

5.132. The Northern India Bank Association has submitted that the efficiency bar as prescribed under the existing award was absolutely necessary to ensure continued efficiency and that the management should have the right to withhold increments if the work of the employee fell below a certain standard.

5.133. The Catholic Syrian Bank Ltd. has submitted that in the ordinary course of events efficiency was sure to deteriorate when the remuneration was beyond the control of the management.

5.134. In the course of the hearing Shri Phadke on behalf of the Indian Banks Association emphasised the need for an efficiency bar at the early stages of an employee's career and stated that if an efficiency bar was kept at an early stage, then there was a possibility of securing improvement in the work of an employee.

5.135. There may be something to be said in favour of the contention urged on behalf of the banks that there should be an efficiency bar in the early years of an employee's career as that would enable a bank to mark out the inefficient from the efficient after a few years of service of an employee. An employee found to be inefficient may there after be more vigilant and improve in efficiency with a view to secure higher increments in the scale of pay. There is, however, no evidence before me about the resultant inefficiency workmen employed as ordinary clerks and as members of the subordinate staff when no such bar is imposed. The banks when engaging employees have ordinarily a number of persons to

choose from. In the absence of any evidence showing the adverse effects of the non-imposition of such a bar in the early years of an employee's career, I see no reason to differ from the views of the earlier Tribunals. As regards the imposition of an efficiency bar at the 20th year of service there seems to be good reason for imposing such a bar. Where workmen after 20 years of experience and service is found to be inefficient or has degenerated into inefficiency it is necessary that a bank should have a right to prevent him from reaching the maximum in the scale of pay. An employee ordinarily remains in service for a number of years after he has completed 20 years of service. It is but right that an inefficient employee should not draw for all these years the same salary as an efficient employee. This bar is a salutary bar and there is no reason to remove it.

5.136. In the result an efficiency bar at the 20th year of service in respect of all categories of workmen for whom scales of pay have been provided under this award is imposed subject to conditions similar to those laid down by the Labour Appellate Tribunal in paragraph 177 of its decision quoted above.

(xii) **Capacity of the Industry to Pay**

5.137. Whilst considering the question of wages in the banking industry, it will be necessary to consider the question of the capacity of the industry to pay wages above the bare minimum wage and the place of the industry in the economy of the country. The question concerning the capacity of an industry to pay wages has been dealt with at some length by the Supreme Court in the case of *Express News Papers (Private) Ltd. and another v. The Union of India and others*, reported in (1959) Supreme Court Reports, page 12, at pages 89 to 93. As the Supreme Court has observed in that case, the capacity of industry to pay can mean one of the three things, viz., (i) capacity of a particular unit (marginal, representative or average) to pay, (ii) the capacity of a particular industry as a whole to pay, or (iii) the capacity of all industries in the country to pay. After considering the various aspects of the matter, the Supreme Court has, at pages 92 and 93 of the aforesaid report, observed as follows:—

“The principles which emerge from the above discussion are:—

- (1) that in the fixation of rates of wages which include within its compass the fixation of scales of wages also, the capacity of the industry to pay is one of the essential circumstances to be taken into consideration except in cases of bare subsistence or minimum wage where the employer is bound to pay the same irrespective of such capacity;
- (2) that the capacity of the industry to pay is to be considered on an industry-cum-region basis after taking a fair cross section of the industry; and
- (3) that the proper measure for gauging the capacity of the industry to pay should take into account the elasticity of demand for the product, the possibility of tightening up the organisation so that the industry could pay higher wages without difficulty and the possibility of increase in the efficiency of the lowest paid workers resulting in increase in production considered in conjunction with the elasticity of demand for the product no doubt against the ultimate background that the burden of the increased rate should not be such as to drive the employer out of business.”

The Supreme Court has observed in an earlier paragraph that in a given case, it may be even permissible to divide the industry into appropriate classes and then deal with the capacity of the industry to pay class-wise. The industry of banking, in cases where the banks have branches in more States than one, has been dealt with class-wise, and the capacity of the industry which, so far as the banks before me are concerned, has to be determined class-wise. Having regard to the principles enunciated by the Supreme Court, the capacity of the industry considered class-wise will have to be determined after taking a fair cross section of each class. As observed by the Sastry Tribunal, the wage structure should be such as to be within the capacity of the industry to bear in the light not apply of its present position, but of its future possibilities also.

5.138. The industry of banking does not produce goods but produces services. It is an extremely important service which is rendered by banks and on the continued and efficient functioning of banks depends the smooth functioning of a large number of other industries in the country. In order that the economy of the country may develop and other industries may function smoothly, it is

necessary that the industry of banking should also develop to meet the growing needs of the country. Banking has to be regarded as a public service and its activity to a certain extent is being regulated in the public interest. There are various provisions in the Banking Companies Act, 1949, and in the Reserve Bank of India Act relating to the regulation and control of the industry in the larger interest of the country. Banks have to work in a more or less rigid framework set by law. The depositing and investing public always plays for safety for its deposits and stability for its investments. Prudent banker not merely provide for what are sometimes known as secret or undisclosed reserves but provide for easy liquidity of some of its assets in order to meet any emergency. They also consider the advisability of following the policy of maintaining stable dividends. Every effort has to be made to gather the confidence of the public and the depositors so that the working funds and operations of the banks may grow.

5.139. The stability of the industry depends upon the over-riding factor of credit. The banks are very often described as delicate instruments of credit. The failure of the bank has its repercussions on the other banks and on the deposits made with other banks. Great care is required to inspire the confidence of the public. Deposits received by the banks constitute, to a very large extent, the raw material for providing advances to persons needing the same. A bank unlike a manufacturing concern obtains a very large proportion of its working funds from the depositors and only a small proportion from its shareholders. In considering the claims of employees, the claims of the depositors and other constituents of the bank have also to be kept in mind.

5.140. In considering the capacity of the industry of banking to bear the burden of increased wages which may be required to be paid having regard to the workmen's claims based on social justice, it is necessary to bear in mind the claim of the shareholders to a fair return on the capital invested by them.

5.141. Banking is one of the key industries in the country. The successful implementation of the Third Five Year Plan depends to a considerable extent on the successful operation of banking in the country. It is requisite that the available resources of the country should be harnessed for the successful implementation of the Third Five Year Plan. Banks have an important role to play in mobilising the resources of the country and canalizing them to productive purposes. It is necessary that the banking habit should spread throughout the length and breadth of the country so that the unused wealth of the country is not merely gathered but is put to effective use. The dependence of commerce upon banking has in modern times become exceedingly great and matters have reached a stage where the cessation for some length of time of banking activity may paralyse to some extent the economic life of the nation. Bankers issue credit. Large transactions are effected by means of cheques rather than by the exchange of currency. Banks assist the industrial undertakings by underwriting their debentures and shares and occasionally finance the purchase of real property. Banks serve as custodians of stocks and shares and other valuables. Imports into and exports out of the country are financed by banks and documents relating to the goods so imported and exported pass through the hands of the bankers. They have to deal with warehouse warrants, bills of lading, railway receipts, bills of exchange, marine insurance policies and various other documents. They advance moneys on securities and issue letters of credit and travellers cheques to customers. The functions which the bankers discharge are numerous and varied. The transactions on the Stock Exchange may be affected by the policy adopted by banks in connection with the advance on shares and securities. Transactions of purchase and sale of various commodities may be affected by the policy adopted by banks in connection with the advance on such goods. Expansion or retraction of credit may affect financing of various transactions. The smooth functioning of banks is necessary for the economic growth and welfare of the country. Peace in this industry is requisite for the economic progress of the country at the pace set by the Third Five Year Plan.

5.142. Having regard to these factors, wage scales have to be fixed in connection with each class of banks before me, so that the burden ultimately imposed may not be such as may drive any bank managed with reasonable efficiency, out of business. The wage structure should be such that it should not be unduly below the paying capacity of the bank at the top of the class, nor unduly above the paying capacity of the bank at the bottom of the class, which is reasonably well-managed. One does sometimes come across banks in the private sector which continue to function for a number of years without distributing a naya palsa by way of dividend, which do not show any substantial profits or which show even losses

for a number of years without any special reason, when other banks functioning in the same region with smaller working funds and reserves make considerable profits. Such banks which continue to exist for various reasons peculiar to those who run the banks cannot be taken into account to depress the wages of the class in which such banks fail. It would be putting a premium on the existence of unhealthy banks if they are encouraged to continue their activities by the incentive of lower wages.

5.143. There are various restrictive provisions contained in the Banking Companies Act. By Section 17 it is made obligatory on a banking company incorporated in India to create a reserve fund. A banking company is under an obligation "out of the balance of profit of each year as disclosed in the profit and loss account prepared under section 29 and before any dividend is declared" to transfer to the reserve fund a sum equivalent to not less than 20 per cent of such profit until the amount of such reserve fund together with the amount in the shares, premium account, equals the amount of the paid-up capital of the company.

5.144. The All India Bank Employees Association has contended that the banking industry today has stabilised its position firmly, that its growth during the Second Five Year Plan period guarantees a tremendous progress during the 3rd Five Year Plan period, that in view of the high tempo of industrial development in this country and fulfilment of the various plan targets there would be a steady flow of deposits in the banks at a more rapid pace than during the 2nd Plan period, that the progress from 1954 in the banking industry was tremendous, that there was no reason to consider that this progress would not be maintained in future, that during these five years the banks' earnings as well as profits had almost doubled, that from 1956 to 1959 expansion in banks' credit was of the magnitude of about fifty per cent, that the pattern of planned development to which the Indian economy was committed would enable the banks to earn more deposits and consequently more profits, that the average of the big banks' dividends for the last five years amounted to 14 per cent, that some of the banks had issued bonus shares out of the reserves, that the deposits of all banks in India in 1954 were Rs. 960.37 crores, in 1955 were Rs. 1043.80 crores, in 1956 were Rs. 1125.10 crores, in 1957 were Rs. 1346.60 crores, in 1958 were Rs. 1562.20 crores and in 1959 were Rs. 1815.35 crores, that the ratio of establishment charges to gross earnings had decreased, that under the Banking Companies Act the banks had been given the right to show income after making provision for bad and doubtful debts and other usual and necessary provisions and as such it was not possible for anyone to ascertain exactly what their actual earnings were, that it was possible for the banking industry to pay to the employees what was demanded in the Charter of Demands submitted by the All India Bank Employees Association and at the same time, to make profits, pay dividend and build up reserves, both open and secret, that whatever difficulties if any, the banking industry was facing, were due to "mismanagement of the vested interests controlling the banks" and that the remedy for such difficulties was to put more restrictions on the activities of banks' management and ultimately to nationalise the whole of the banking industry in the interest of the country's economy. The All India Bank Employees Federation has submitted that the financial position of the banks as a whole was extremely sound.

5.145. The All India State Bank of India Staff Federation and the State Bank of India Staff Union, Andhra Pradesh, in their statement of claim have pleaded that the resources of the Indian Banking system were expanding at a fast rate, making it a dynamic instrument for financing the development of the economy of the country, that this development has emerged from the phase of inflation which the country has been witnessing for some years, that price inflation had been an element in accelerating capital formation and the expansion of banking system, which, in turn, was aided by the process of inflation as an important factor in financing economic development, that an important index of the healthy growth of the banking system and of the steadily increasing banking habit was the ratio of bank deposits to the currency in circulation and that India's ratio improved between 1950 and 1959 from 0.70 to 1.03. As regards deposits, they submit that there were three noteworthy trends. There was a sudden fall in the volume of deposits from the year 1948 to 1949, the contraction in the total deposits being of the order of approximately Rs. 100 crores; from 1949 to 1954 the volume of deposits was in a state of stagnation which was broken in the year 1955 from which year onwards deposits began to rise progressively and between 1949 and 1958 the volume of total deposits had nearly doubled. They further submit that the ratio of bank credit to industry in India rose from 34.7 per cent of the total credits in June 1953 to 46.2 per cent in April 1959. As regards the State Bank

of India, they have submitted that the State Bank of India occupied a unique place in the Indian banking industry, that by its age, its resources, its size, its business and its reputation it enjoyed an unrivalled position in the banking system of the country, that the total deposits of the State Bank of India which stood at Rs. 188.0 crores in June 1955 had steadily risen to Rs. 615.0 crores in April 1960 and formed 31.9 per cent of the total deposits of all scheduled banks in India as compared to 19.1 per cent in June 1955, that the bank's advances (including bills) which amounted to Rs. 110.00 crores in June 1955, steadily went up to Rs. 185.3 crores in June 1959, that in April 1960 the bank's advances had risen to the record level of Rs. 211.9 crores, when they formed 18.8 per cent of the total advances of all scheduled banks as compared to 18.9 per cent at the end of the busy season of 1954-55 and that the bank's investments in Government securities rose from Rs. 87.0 crores in June 1955 to Rs. 297.4 crores in June 1959. They have further submitted that the future of the banking industry was very bright.

5.146. The South Gujarat Bank of Baroda Employees Union has submitted that the Bank of Baroda has made a commendable progress and has built up large reserves and has expanded its banking activities in various parts of India as well as in foreign lands and that it has paid to its shareholders exorbitant dividends and has made huge profits.

5.147. The Indian Banks Association in its reply has observed that the state of the banking industry and its capacity to pay were matters of vital importance and that these matters would have to be investigated before any fresh burdens could be placed upon the industry. It has referred to the various directives issued by the Reserve Bank of India since 1956 restricting the activities of banks. It has referred to the various legal restrictions which act as a brake upon the earning capacity of the banks. These restrictions have been imposed for the stability of banking and in the general interest of the economy of the country, and they have to be taken into account in assessing the paying capacity of the industry.

5.148. The Indian Banks Association has further submitted that "the capacity to pay of the banking industry as a whole has been fully stretched and there is no scope to call on banks to bear any further financial burdens, both in the interest of the industry and the national economy", that if the productivity of labour, the place of industry in the economy of the country and the capacity of the industry to pay were taken into account, it would be clear to the Tribunal that the present rates of emoluments of bank employees were fair and even generous, and that somewhat exaggerated ideas had been formed by the employees about the prosperity of the banking industry. It has denied that during the period of five years the banks represented by it have doubled their earnings and profits. It has stated that the employees have attempted to paint a very rosy picture and have suggested an era of huge bank profits by merely referring to figures of bank deposits ignoring other relevant factors and materials which alone could present a true and complete picture in its proper perspective. It has pointed out that 67% of the Indian Scheduled Banks have not been able to strengthen their position considering that they have reserves which are less than their paid up capital, 40% of the said banks having reserves less than even 50% of such capital. It has further stated that it was misleading to state that the dividends to the shareholders of the banks are at the rate of 14%. It has also submitted that a mere rise in profits of the banks was no justification for granting higher emoluments to the employees since the need to make proper allocations out of such profits in the interest of stability and safety of the industry could not be ignored.

5.149. The Bombay Exchange Banks Association has stated that the Exchange Banks did not plead incapacity to pay reasonable wages. It points out that "banking is a labour intensive occupation, establishment costs forming the major part of working expenses." It has denied that the progress from 1954 to date has been 'tremendous.' It has further stated that the profits made up to date were moderate, that it would be unrealistic merely to refer to earnings and profits without at the same time considering the increase in cost and expenses particularly establishment charges and that the establishment expenses of the foreign scheduled banks have risen at a much faster pace than their profits. It has pointed out that banks have to maintain large reserves to ensure that the depositors' interest are safeguarded and to avoid the possibility of a serious monetary crisis and that statutory provisions had been enacted in respect of reserve funds and of compulsory deposits with the Reserve Bank of India mainly for these purposes. It further points out that if a healthy dividend was not maintained, it would be

reflected in the market price of the shares and would affect the depositors' confidence with serious repercussions on the banks resulting in fall of deposits and contraction of business with consequential effect on employment. It has submitted that the claim made by the workmen that "the future of the banking industry and at least the picture of the coming five to seven years can be foretold," was extraordinary, naive, optimistic and incorrect. It further points out that "overall level of bank deposits depends primarily on the volume and velocity of currency in circulation which is determined by the Government's economic, monetary and fiscal policies." It further states that there was no doubt that the spread of the banking habit had led to a higher level of deposits, but in the ultimate analysis, over a long period, the growth must depend on the factors outlined above. It has submitted that with greater and greater control by the Reserve Bank of India, it was impossible to postulate what the profit position would be in the near future and that it was not correct to merely take into account the rise in profits ignoring the rise in working expenses. It denied that if the Charter of Demands of the All India Bank Employees Association were implemented by the banks, it would still be possible for banks to make profit, pay reasonable dividends and build up adequate reserves. It denied the allegations of mismanagement and stated that as regards the question of nationalisation, that was a matter best left to the legislature.

5.150. The Northern India Banks Association has pleaded that banking industry is subject to numerous well-known risks, such as losses arising from depression in Trade and Industry, fluctuations in the value of Government and other Stock Exchange securities and losses due to frauds on the part of the borrowers, clients and members of the staff. It has further stated that the fact that investors in industries have generally reaped much large profits than investors in bank shares, not only in India but all over the world, shows that real banking profits bear no comparison to profits in industry, if the relative investment of capital is taken as a basis for the measurement of profits. It has pointed out that as a result of the partition of the country banks which had activities in areas now forming part of West Pakistan, suffered very heavy losses, with the result that some of them had to write off not only the reserves but also the major part of their capital (varying from 50 per cent to 100 per cent) apart from losses which they had to transfer to their depositors. The Association submits that the banking industry was not a "productive" industry but only a "conservative" industry and by the very nature of its activities, being the core of the financial system, it had to invest a large percentage of its funds in Government securities which investment had resulted in lot of depreciation as borne out by the experience of the past years. It further points out that banking is an industry for the conservation of the nation's resources and it is subject to upheavals caused by war, pestilence and Government deficit financing to an extent unknown to productive units of industry. The banks had also to keep their investments diversified and thus in working out the real paying capacity of the banking industry, large sums had to be earmarked as provision for losses caused by change in money rates and by political or natural calamities which might occur at long intervals. The Association has submitted that the banking industry as a whole could not bear any further increase in the wage bill and that it would be difficult for the banks to meet their rapidly increasing establishment charges based on the automatic operation of the time scale of increments in the existing award and the consequent increase in the dearness allowance, house allowance, provident fund contributions, bonus, gratuity, etc. It has observed that there was no doubt that since 1954 the deposits of the banks have increased as also their gross earnings. It has pointed out that the increase in the net earnings, owing to a rapid increase in establishment charges and other items of expenditure had not however been such, as to enable the banks, after making provisions which prudence dictates and which the law wisely envisages, to step up the dividends substantially. It further says that heavy establishment charges were one of the very important contributing factors to the inability of the banks to give satisfaction to the shareholders and that in the case of many of the member banks, the handicap of losses, resulting solely from the partition of the country, had been such as to have made a distribution of any dividend impossible since 1947. It points out that out of 35 banks adversely affected on account of displacement from West Pakistan, only 14 had been able to survive and out of these, only 3 had been able to pay dividends and these too, after missing the same for several years. It further submits that the really important thing was not the increase in bank deposits, but the effect that the increase has in net earnings of banking institutions, and judging from the increase in reserves and distribution of dividends, this increase could not be deemed, by any test, as exceptional. It points out that the net profits of most banks had not been

enough to enable them, over the years, to raise their statutory reserves to the level of their paid-up capital, and that some of the banks had not been able even to write off depreciation in their investment in Government and other stock exchange securities. It refers to the absence of any provision or wholly inadequate provision by most banks in respect of the accumulated liability on account of gratuity and/or the retirement benefits due to the employees even under the existing award.

5.151. The State Bank of India in its reply, has stated that its major shareholder is the Reserve Bank of India which ploughed back a major portion of the dividends payable to it particularly to finance the State Bank in meeting a portion of the losses incurred by the new branches opened by the State Bank as also by those opened or to be opened by the State Bank's Subsidiaries in rural and semi-urban areas. The State Bank denied that the finances of the State Bank would not be affected even if all the demands of workmen were conceded in full. It stated that if the demands were met fully, it would involve the State Bank in an additional expenditure of Rupees five crores or thereabouts per annum only in respect of its workmen staff in India.

5.152. The State Bank has submitted that if the Tribunal took the view that the employees had established a case of "changed circumstances," it should also be borne in mind that the State Bank was by Statute required to do what other commercial banks would not think it advisable to do, namely, opening branches in rural and semi-rural areas, that the State Bank, in the national interest, has to encourage and support small scale industries, co-operative institutions, etc., by providing cheaper finance and that the State Bank through a network of its branches has also to take over Government treasuries and sub-treasuries and deal with Government transactions as agent of the Reserve Bank.

5.153. The Travancore-Cochin Bankers' Association, representing the Palai Central Bank Ltd., the Travancore-Forward Bank Ltd., the South Indian Bank Ltd., the Indian Insurance & Banking Corporation Ltd., the Marthandam Commercial Bank Ltd., the Trivendrum Permanent Bank Ltd. and the Nadar Mercantile Bank Ltd., has referred to the following peculiar problems and features relating to banking in Kerala State:—

- (a) The large number of small banks.
- (b) The keen competition between the small units operating here and the bigger units who had opened branches here.
- (c) The high rates of interest, the small units had to pay for their deposits.
- (d) The absence of marketable securities for utilisation of funds in these banks.
- (e) The high proportion of time deposits when compared to the rest of India.
- (f) Low proportion of demand deposits in the absence of large scale industries operating in the area.
- (g) The restrictions or directions imposed by the Reserve Bank of India in regard to unsecured advances or advances against real estate.
- (h) Higher costs in obtaining deposits from a net work of rural branches.
- (i) The absence of Small Scale Industries or Large Scale Industries in the area to afford utilisation of Bank's funds or acquiring deposits at lower cost.
- (j) Competition from bigger banks operating in this area.
- (k) The small size of the banks-operation of the Banking Companies Act.
- (l) High rates of taxation.
- (m) Difficulties of banks to increase capital.
- (n) Difficulties on account of delays in Courts for realising the amounts sued for.

- (o) The difficulties the banks may have to face on the passing of the several legislations which are awaiting assent of the President of India.
- (p) The peculiarities of the area where the banks are operating, in reference to the economical background of the population and the agricultural economy.

After pointing out these, the Association states that although the deposits of the banks may show a rise, the earning capacity had fallen, and that during the last four years, its member banks had not made any more progress so as to enable them to meet any additional burden, but on the contrary, their earning capacity had been reduced. The Association has submitted that the problems of the banks in Kerala State would have to be treated on a special basis, as they could not be put on par with banks operating in the rest of India.

5.154. The Kerala Bankers Association, representing the Catholic Syrian Bank Ltd., the Cochin Commercial Bank Ltd. and 5 other banks which are not before me points out that the banks in Kerala had been advancing upto eighty per cent of the total deposits and that it was because these banks were keeping up the higher percentage of advance that they were able to show profit, that the Reserve Bank was insisting on all banks that the above ratio should not exceed sixty per cent and that on compliance with the same there would be a substantial reduction in the profits. It further points out that the Reserve Bank had required that the security on landed property should not exceed twenty per cent of the total advance of sixty per cent and that the same would result in reduction of profits and that any additional financial burden at this stage was sure to upset the working of the banks.

5.155. It has been pleaded on behalf of the eight Subsidiaries of the State Bank of India that the special position and the special features of these banks and the obligations which they had to discharge and the restrictions that had been imposed on them should be taken into consideration when adjudicating upon the disputes between the Subsidiary banks and their workmen.

5.156. The National Bank of Lahore has submitted that the picture painted by the All India Bank Employees Association of the prosperity of the banking industry was more or less an illusory one. It has submitted that any further increase in the wage bill would result in the imposition of an unbearable burden on the industry. The Bharatha Lakshmi Bank Limited has submitted that the bank had not been able to pay dividend for the last 11 years as its profits were insufficient and any greater burden placed on it would surely result in depletion of capital. It has submitted that any increase in salary disproportionate to the resources and the capacity of banks would spell ruin of small banks. In connection with the statement that from 1954 onwards the banking industry has made tremendous progress in all directions and increased their earnings and profits, the bank has submitted that this was one phase; that a large number of banks had gone out of existence during that period was the other phase of development in the banking industry and that it was unwise to consider one phase and ignore the other. The Gadodia Bank has referred to the grave circumstances and acute problems which banks had to face on account of growing legislative control and the rising cost of operation without any corresponding increase in income or improvement in productivity. The bank has submitted that the Indian banking in its role as "resource mobiliser and credit purveyor" for the economy of the country, could best play its part only when it was not saddled with more expenses than what it had to pay in the present circumstances and that the banks' capacity to pay more was out of question. It has further submitted that the grades which were fixed by the Sastry Award were the maximum that were warranted by the capacity of banks to pay or even by the economic condition of the country. The Vijaya Bank has submitted that it would be impossible for it to bear any additional burden on account of increase in the salary or on account of increase in the dearness allowance or other allowances to be paid to its employees. The Miraj State Bank has submitted that the financial position of the bank was very weak and that the bank did not have capacity to pay any higher wages or to afford any better conditions of work than those that were now made available to the workmen by the bank. The Hindustan Commercial Bank Limited has submitted that the bank was not in a position to shoulder larger financial burden in the shape of increased emoluments to the workmen of the bank and prayed that no additional burden be imposed on the bank.

5.157. In connection with the question of banks' capacity to pay reasonable wages, the Bombay Exchange Banks Association on behalf of its 12 member banks reached an understanding on 18th August 1960 with the All India Bank Employees' Association in Miscellaneous Application No. 10 of 1960 made by the All India Bank Employees' Association for directions for production of certain documents. A reference to the said understanding has been made in words following:—

"The All India Bank Employees' Association do not press their above application for production of documents, etc., against the various Exchange Banks concerned in the reference * * * * * on the understanding that the Exchange Banks do not plead incapacity to pay reasonable wages as may be awarded by the Tribunal."

A similar understanding was reached between the Bombay Exchange Banks Association and the All India Bank Employees' Federation on the same day in connection with Miscellaneous Application No. 25 of 1960 filed by the All India Bank Employees' Federation for directions for production of certain documents.

5.158. There are numerous statements which have been filed on behalf of the employers and the employees in connection with the paying capacity of the banks on various footings.

5.159. The Indian Banks Association at the time of the hearing pointed out that the banks would be required to pay a considerable amount by way of premia to the Deposit Insurance Corporation in connection with the scheme of insurance in respect of deposits made by depositors. A statement has been filed by the Indian Banks Association showing that its A Class member banks would have to pay insurance premia varying from Rs. 1,40,632/- to Rs. 9,78,108/- its B Class member banks would have to pay premia varying from Rs. 41,366 to Rs. 98,084 and its C Class member banks would have to pay premia varying from Rs. 6,560/- to Rs. 34,561/-. The State Bank of India has filed a statement showing that at the provisional rate of 5 nP. per Rs. 100/- per annum the State Bank of India would have to pay approximately a premium of Rs. 13.86 lacs.

5.160. The Balance Sheets and Profit and Loss accounts of banks have been filed before me. A statement has also been filed showing the effect on the profits of a number of banks if a 10 per cent overall increase in emoluments takes place. The Indian Banks Association has exhibited a letter, dated 17th June, 1961 written by the Deputy Economic Adviser of the Reserve Bank of India to the Indian Banks Association containing certain proposals made by the Reserve Bank of India for strengthening the capital funds of banks and raising cash reserves and liquidity requirements of banks. In the course of the letter, the trends in paid-up capital and reserves of commercial banks in general have been discussed and the same contains a fair assessment of the progress of the banking industry. It would not be out of place to set out *in extenso* the following extract therefrom:—

"In the course of the last decade, the Indian banking system has passed through a phase of vigorous business expansion following the increasing economic activity under the stimulus of the First and the Second Five Year Plans. Reflecting the substantial rise in the developmental expenditure and the level of economic activity, particularly since 1955, deposits of Indian commercial banks (excluding P.L. 480 deposits), have nearly doubled while, during the same period, bank credit has risen by two and a half times and the ratio of credit to deposits has risen from 49 per cent as at the end of December, 1950 to 69 per cent at the end of December, 1960. There has also been a change in the distribution of bank credits; credit to industry, which in December, 1950 constituted 32 per cent of the total credit, accounted for 51 per cent of the total as on October 30, 1960. Further, a few of the commercial banks have been venturing into new lines of activity such as term lending to industry, underwriting of new issues with the concomitant risk of having to hold unsold shares, guaranteeing of deferred credit payments, etc. The profits of the Indian scheduled banks have doubled between 1950 and 1960. In contrast, the growth in capital and reserves has been very slow, particularly in relation to the growth of deposits. The total paid-up capital and reserves of Indian scheduled banks increased between 1950 and 1960 by only Rs. 9 crores to Rs. 68 crores. The increase in paid-up capital component during the period was only Rs. 2.3 crores. The ratio of paid-up capital and reserves

to deposits has, therefore, been steadily declining from 13 per cent in 1939 to 9 per cent in 1950 and further to 5 per cent in 1960 (excluding P.L. 480 deposits). As at the end of January, 1961, the ratio of paid-up capital and reserves to deposits was below 5 per cent in the case of 23 banks of which 9 were large banks (having deposits above Rs. 25 crores). The ratio of only paid-up capital to deposits was below 3 per cent in the case of 23 banks of which 10 were big banks."

It is also stated in the said letter that the further fast pace of expansion in deposits, advances, etc., during recent years as well as the changing pattern of bank lending make it desirable now to prescribe higher standards in regard to paid-up capital and reserves. This statement shows the great expansion of banking industry during recent years with only a small increase in the paid-up capital and reserves to the extent known. The total deposits of scheduled banks in the last 5 years excluding the P.L. 480 figures are as follows:—

1956	Rs. 1047 crores.
1957	Rs. 1186 crores.
1958	Rs. 1318 crores.
1959	Rs. 1474 crores.
1960	Rs. 1566 crores.

5.161. As regards the general economic conditions of the country, it may suffice to make a reference to the report of the Central Board of Directors of the Reserve Bank of India for the year 1st July, 1960 to 30th June, 1961. It is stated in this report that during the accounting year ended June 30, 1961—which broadly corresponds with the final year of the Second Five Year Plan—the favourable developments in the Indian economy were a rise in aggregate investment, an encouraging advance in agricultural output and a record rate of increase in industrial production; that the expansion in bank credit to the private sector and to Government led to a further sharp increase in money supply during the year; while the expansion in the former was larger than last year, that in the latter was smaller and that the widespread boom in economic activity was also reflected in the ebullience of stock and capital markets and unusual activity in the new issue market for the greater part of the year. In connection with monetary situation and banking trends, it was observed as follows:—

"In the monetary sphere, reflecting the continuing high tempo of economic activity both money supply with the public and scheduled bank credit showed a larger expansion than in the preceding year. Money supply with the public rose by Rs. 204 crores (adjusted for withdrawals of special currency from Kuwait, referred to below) or 7.5 per cent, as compared to Rs. 171 crores or 6.8 per cent in 1959-60. As in the previous year, the bulk of the expansion in 1960-61 also occurred under currency with the public, which accounts for more than two-thirds of total money supply. The growth in money supply in the Second Plan period (end-March 1956 to end-March 1961) was significantly larger than in the First Plan period, the aggregate net expansion amounting to Rs. 722 crores or 33.1 per cent as compared to Rs. 199 crores or 10.1 per cent in the First Plan."

In connection with the scheduled bank credit, it has been observed that the scheduled bank credit, which had expanded by Rs. 139 crores in 1959-60, rose further by Rs. 163 crores (to Rs. 1288 crores) during the said year under review. It is further observed as follows:—

"The expansion in 1960-61 occurred together with a decline in deposit resources (inclusive of P.L. 480 funds) of Rs. 35 crores; in contrast, the expansion in 1959-60 took place alongside a rise of Rs. 228 crores in deposit resources (inclusive of P.L. 480 funds). Exclusive of P.L. 480 funds, as explained earlier, deposit liabilities showed a rise of Rs. 130 crores in 1960-61 as compared to Rs. 163 crores in 1959-60. On the basis of the annual average figures, the rise in bank credit during the year as compared to the previous year was sharper still being Rs. 185 crores as compared to a rise of Rs. 99 crores, on the average in 1959-60. The comparatively smaller slack season contraction was a major factor contributing to the larger credit expansion in 1960-61. As against a decline of Rs. 118 crores in the 1958 slack season and of Rs. 79 crores in the 1959 slack season, the contraction in the 1960

slack season was barely Rs. 20 crores; a decline in advances against seasonal commodities was mostly offset by increased credits against industrial goods. The expansion in the 1960-61 busy season, on the other hand, exceeded the previous busy season's record level of Rs. 189 crores by Rs. 10 crores. The credit-deposit ratio rose sharply from 57.2 per cent at end-June 1960 to 71.1 per cent by end-March 1961 and stood at 66.7 per cent at end-June 1961; excluding P.L. 480 funds, the ratio worked out to 72.9 per cent at the end of June 1961 as compared to 68.8 per cent a year before. It may be noted that credit expansion in the Second Plan period proceeded at a much faster rate than in the First Plan, the aggregate net rise in the period 1956-61 being of the order of Rs. 575 crores or 76 per cent as compared to about Rs. 200 crores or only 35 per cent during the period 1951-56."

The achievements of the Second Five Year Plan have been summed up in the report in the following words:—

"The achievement of the Second Five Year Plan which has just ended remains impressive, despite the foreign exchange crisis early in its course, the vicissitudes of nature's bounty and a steady rise in prices throughout the period. It is true that not all targets have been fulfilled, but commendable advance on a wide front has been attained in production and standards of living and welfare services and in preparing the groundwork for further advance in the Third Plan. In spite of the vagaries of the monsoon and the inadequacies of organisation, agricultural production went up by 16 per cent over the Plan period and the output of foodgrains by 20 per cent, though the output of 1960-61 is expected to fall short of the target of 80 million tons by 2 million tons. Industrial production made an impressive advance of 40 per cent. National income at constant prices is estimated to have risen by 19.6 per cent, as against a rise of 18.4 per cent over the First Plan period. Plan outlay at Rs. 4,600 crores was Rs. 100 crores higher than the revised target, though Rs. 200 crores below the original target; allowing for the rise in prices, investment in real terms shows a greater short-fall in relation to the target. On the other side of the medal, exports were stagnant, net invisible income was rapidly on the decline, and balance of payments deficit widened considerably resulting in a fall of Rs. 600 crores in foreign exchange reserves, which was thrice the figure originally estimated notwithstanding the fact that foreign aid was far in excess of the original provision. The pressure of aggregate demand in the economy was intensified and largely contributed to the rise of about 30 per cent in the price level over the five-year period. On balance there has been over the Plan period a definite advance in terms of aggregates but the net improvement as measured by increase in per capita national income has been modest owing to the growth in population."

In connection with the Third Five Year Plan it has been observed in the said report as follows:—

"The Third Plan envisages over the five years an aggregate investment of Rs. 10,400 crores, an increase in the ratio of investment to national income from 11 per cent in the Second Plan to 14.15 per cent in the Third Plan, an increase in the ratio of savings to national income from about 8.5 per cent to nearly 11.5 per cent, a substantial rise in agricultural and industrial production and an increase in national income of about 30 per cent. With additional taxation of Rs. 1,710 crores and the combined total of market borrowings and small savings at Rs. 1,400 crores, the deficit financing required has been reduced to the level of Rs. 550 crores, which is expected to be non-inflationary, if the output targets are realised."

In the "Trend and Progress of Banking in India during the year 1960" published by the Reserve Bank of India it is stated in paragraphs 80 and 81 as under:—

"Indian banking achieved significant progress in all aspects of its business during the years 1956-60, and thus responded satisfactorily to the requirements of the Second Plan. The growth of deposits was substantial; it was of the order of 85 per cent for the scheduled banks. The number of bank accounts, which is an important indicator of

the spread of banking habit, also rose markedly by about 55 per cent as compared to only 13 per cent in the First Plan period. The bulk of the increase was in the savings and fixed deposit accounts of small men, though this meant a rise in the cost of service of banks. The loan accounts increased by 83 per cent, almost by the same rate as in the First Plan period. Equally impressive was the rise in the volume of other services of banks such as issue of drafts and telegraphic transfers and collection and negotiation of bills, both inland and foreign.

* * * *

Gratifying as the progress has been so far, the banking system has to gear itself to meet the challenge of the Third Plan, the investment target of which is about 50 per cent higher than of the Second Plan. The indications are that the volume of work to be handled by the banking system might well be nearly doubled in the Third Plan period."

Reliance has been placed upon a speech delivered by Shri H.V.R. Iengar, Governor of the Reserve Bank of India, as President of the Indian Institute of Bankers at the annual general meeting held on 10th August, 1961. In the course of his speech he has observed that it was refreshing to recall that a phase of stagnation of bank shares in recent years had also been followed during the last year by an impressive advance, the index of bank shares having risen over the year upto July 15 from 185.9 to 225.3 as against a modest increase in the general index of variable dividend securities from 176.4 to 182.6.

5.162. On behalf of the employees of the State Bank of India, Bengal Circle, reliance has been placed on a speech delivered by Shri P. C. Bhattacharya, Chairman of the State Bank of India, at the 6th Annual General Meeting of the shareholders held at Bombay, wherein he has referred to the net profits of the bank after the usual and necessary provisions had been made and which showed an increase from Rs. 1.87 crores to Rs. 2.18 crores during the year 1960. In his speech he has stated that the bank has been able thereby not only to strengthen its reserve fund and other funds to a greater extent than last year but also to declare a dividend of Rs. 22.75 per share for the year, thus restoring practically the net dividend that was previously available to the shareholders.

5.163. On an application made by the All India Bank Employees Federation and 2 other unions I passed an order on 20th January 1961, in connection with 62 banks under the provisions contained in section 34A(2) of the Banking Companies Act, requiring the Reserve Bank of India to furnish to me a certificate in respect of each of the said banks as provided by the said section after taking into consideration the principles of sound banking and all relevant circumstances concerning the said banks, stating whether I should not take into account any amount as such reserves and provisions of the banking company concerned or may take them into account specifying the extent of the amount to which only I may so take them into account in determining the paying capacity of the banks in connection with any financial burden that may be imposed upon them as a result of my award. The Reserve Bank has furnished to me the requisite certificates and in making my award, I have duly considered the same.

5.164. In considering the burden which the banking companies would have to bear by reason of an increase in the establishment charges, one cannot lose sight of the fact that such increase would result in the diminution of the taxable income of the companies concerned. Such reduction in the taxable income would also result in the reduction in the amount of taxes which the banks would otherwise have to pay under the Income Tax Act. Under the scheme of the Indian Income Tax Act prevailing for some time the taxes payable by a company in respect of the taxable income of the company amount to 45 per cent thereof. A further 5 per cent increase is envisaged in the new budget as presented to Parliament. In the result, any increase in the establishment charges will be offset by reduction of taxes to the extent of about 50 per cent of such increase.

5.165. As far as it is humanly possible to foresee the future, apart from any major calamities that may occur, the future of banking and of banks, except of a few small units, is bright.

5.166. I have before me material from which to judge the paying capacity of banks if the industry is considered as a whole, if the industry is considered class-wise and if the industry is considered unitwise. As regard the banks falling in

Class A, the Exchange Banks do not plead incapacity to pay reasonable wages. Whether one looks at a fair cross section of the banks falling in Class A or considers the individual units in the Class, these banks without any difficulty, would be in a position to bear the burden of the increase in remuneration and of the increase in the other benefits and amenities provided under this award.

5.167. As regards the banks falling in Class B, whether the paying capacity is considered having regard to the paying capacity of a fair cross section of the class or even of the individual units, they would be able to bear the burden of the increase in remuneration and of the increase in benefits and amenities provided under this award. I have in the chapter relating to the classification of banks and areas dealt with individually the case of the Subsidiaries of the State Bank of India which constitute a major part of banks falling in this class.

5.168. As regards the banks falling within Class C, if a fair cross section of this class is taken, they would be in a position to bear the burden of the increase in remuneration and of the increase in benefits and amenities provided under this award. I have also taken care to examine the case of several banks falling within this class unitwise while dealing with the question relating to classification of banks. Some of the weaker units which may find it difficult to bear the burden of this award applicable to Class C banks have been separately listed and put in the Excepted List.

5.169. As regards the banks shown in the Excepted List, I have considered their case unitwise and I have provided for workmen employed in those banks what I regard as the minimum wage. In my view, they would or should be able to bear the burden imposed under this award.

5.170. To the extent that I found that a sudden change of service conditions might lead to a precipitous increase in the burden on some of the banks. I have provided the necessary relief.

(xiii) The National Income

5.171. Another factor to be taken into consideration is the national income and its distribution. The net national output at factor cost i.e. the national income at current prices and at 1948-49 prices and the per capita net output at current prices and at 1948-49 prices for the years 1951-52 to 1959-60 were as follows:—

National income	1951-52	1952-53	1953-54	1954-55	1955-56	1956-57	1957-58	1958-59	1959-60
At current prices in Rs. 100 crores	99.7	98.2	104.8	96.1	99.8	113.1	113.9	126.0	128.4
At 1948-49 prices in Rs. 100 crores	91.0	94.6	100.3	102.8	104.8	110.0	108.9	116.5	117.6
<i>Per capita net output</i>									
At current prices in Rupees	274.0	266.4	280.7	254.2	260.6	291.5	298.8	316.5	318.4
At 1948-49 prices in Rupees	250.1	256.6	268.7	271.9	273.6	283.5	277.1	292.6	291.6

The 1959-60 level of national income according to preliminary estimates represented a rise of about 12 per cent. over the 1955-56 level. Under the heading "organised banking and insurance" the output at current prices for 1959-60 according to preliminary estimates was Rs. 1.4 abja (100 crores) as against Rs. 0.9 abja (100 crores) for the year 1955-56.

(xiv) Productivity of Labour

5.172. One of the factors to be taken into account in fixing wage scales is the productivity of labour. As observed by the Sastry Tribunal, the awards of industrial tribunals and courts make no more than a passing reference to the productivity of labour. In banking industry, it is very difficult to fix standards of work by means of time and motion studies, by piece rate method or by incentive method of wage payment. The industry of banking is not concerned with the production of goods. The Bank Award Commission has observed that banking is not a productive business from the ordinary common sense point of view so that the first out of the four principles laid down by the Committee on Fair Wages, viz., the productivity of labour, cannot so much apply to the industry of banking. The efficiency of workmen in the banking industry does play a part in inspiring and establishing confidence of the public in banks, but there are hardly any standards by which to measure the productivity of labour in banks in terms of the services rendered by the banks or the profits made by the banks.

(xv) Erosion.

5.173. The workmen have strongly urged that their present wages are inadequate that the present formula of dearness allowance does not provide for them full or adequate neutralisation in respect of the rise in the cost of living and that consequently erosion has taken place in their total emoluments in terms of purchasing power. It is the contention of the workmen that money has its value in terms of its purchasing power, that when prices of goods consumed by the workmen increase, the workmen with the same amount of money can buy less quantity of those goods and that consequently there results a reduction in their real wages. They plead that if there had been a direct and visible cut in their wages they would have resisted the same but in the case of such indirect cuts they suffer the same in misery. The Sastry Tribunal by linking the dearness allowance with the consumer price index numbers has provided relief to a certain extent but it is claimed that the relief is not full.

5.174. The following table indicates what has been termed the arithmetical erosion in the emoluments (excluding house rent allowance) of the bank employees in the various classes of banks in Area I at the all-India working class consumer price index number 169, base 1944=100, equivalent to 123 base 1949=100, on the hypothetical basis that the emoluments prescribed by the Sastry Award as modified were prescribed at the all-India working class consumer price index number 144 (base 1944=100).

Erosion in Emoluments of Employees in Banks. (In Rupees and Naye Paise).

Year of Service	A Class		B Class		C Class	
	Clerks	Subordinates	Clerks	Subordinates	Clerks	Subordinates
I	2	3	4	5	6	7
1.	5.58	3.69	4.19	3.19	2.81	3.04
2.	6.45	4.04	4.89	3.54	3.50	3.39
3.	7.32	4.39	5.58	3.89	4.19	3.74
4.	8.19	4.73	6.45	4.24	4.89	4.08
5.	8.80	5.08	7.32	4.58	5.58	4.43
6.	9.40	5.43	8.19	4.93	6.45	4.78
7.	10.11	5.77	8.80	5.28	7.32	5.13
8.	10.81	6.12	9.40	5.62	8.19	5.47
9.	11.51	6.30	10.11	5.97	8.80	5.82

	1	2	3	4	5	6	7		
10.	.	.	.	12.21	6.47	10.81	6.32	9.40	6.17
11.	.	.	.	13.00	6.64	11.51	6.49	10.22	6.51
12.	.	.	.	13.80	6.82	12.21	6.67	10.81	6.69
13.	.	.	.	14.59	6.99	13.00	6.84	11.51	6.86
14.	.	.	.	15.48	7.17	13.80	7.01	12.21	7.03
15.	.	.	.	16.42	7.34	14.59	7.19	13.01	7.21
16.	.	.	.	17.30	7.51	15.48	7.36	13.80	7.38
17.	.	.	.	18.19	7.69	16.42	7.53	14.59	7.56
18.	.	.	.	19.20	7.86	17.30	7.70	15.48	7.73
19.	.	.	.	20.16	8.03	18.19	7.88	16.42	7.90
20.	.	.	.	21.17	8.21	19.20	8.06	17.30	8.08
21.	.	.	.	22.13	8.38	20.16	8.23	18.19	8.25
22.	.	.	.	23.14	8.55	21.17	8.40	19.21	8.43
23.	.	.	.	24.23	8.73	22.13	8.58	20.16	8.60
24.	.	.	.	25.33	8.90	23.14	8.75	21.17	8.77
25.	.	.	.	26.94	8.07	24.23	8.92	22.13	8.94

5.175. The workmen's claim for revision on the basis of erosion has been opposed by the banks. Apart from the question whether full neutralisation should be allowed or not, that the demands as made by the workmen are not warranted by the limited extent of the erosion.

(xvi) Prevailing Rates of Wages in Comparable Concerns

5.176. One of the important factors to be taken into account in fixing wage scale is the prevailing rates of wages in the same or similar occupations in the same or neighbouring localities.

5.177. The Sastry Tribunal in considering the prevailing rates of wages has observed that helpful comparisons could be made between wages in major banks and those in small banks, between banks on the one hand and certain industries on the other, between the bank awards and the awards in insurance companies, oil companies and textile companies and that the rates of pay in certain departments of Government such as the Posts and Telegraphs and in State Governments would also furnish material for the construction of a pay scale for the bank workmen. It also referred to the report of the First Pay Commission and stated that there were several affinities between bank workmen and Government clerks, bank subordinates and Government menials. The Sastry Tribunal has set out the scale of pay for clerks in the service of the various State Governments and also in the service of the Central Government. In paragraph 260 of its award it has observed as follows:—

"Or again we may take a cross section of the wage map of India for clerical staff and compare the prevailing rates in a mixed bag consisting of industrial concerns, municipalities, insurance companies, government departments, Port Trust and Reserve Bank of India."

The Sastry Tribunal has then set out the emoluments received at the initial start by members of the clerical staff of various concerns in this mixed bag. It has also given a summary of the emoluments given to clerks under the more important award relating to various concerns.

5.178. The Labour Appellate Tribunal after referring to the fact that the Sastry Tribunal had set out in its award the total emoluments of a mixed batch of industries and Government and quasi-Government institutions stated that it had collected other material also. The Labour Appellate Tribunal has thereafter set out the total emoluments payable to a clerk at the initial start in 28 different concerns. After considering the emoluments payable in these concerns, the Labour Appellate Tribunal in paragraph 102 of its decision observed as follows:—

“In our view the clerk in an ‘A’ class bank in class I area should receive as his starting total emolument something midway between Rs. 130 (which the Central Government gives to its clerk) and the wages of the higher commercial firms (excluding the oil companies to avoid possible contentions).”

In the course of its decision it has further stated as follows:—

“It is true that quite a number of the concerns whose total emoluments we have given are industries but as we have said before a clerk is no less a clerk whether he is in an industrial concern or in a bank; his duties are in the main clerical even though the nature of such clerical duties may vary from concern to concern. There are however in the list a number of concerns which are in the main commercial although some of them may have allied industrial units. Bearing in mind the principal considerations already enunciated and taking a conservative view, we are satisfied that the minimum total emoluments of a clerk in an ‘A’ class bank in class I area should be raised to something between Rs. 140 and Rs. 145 and suitable variations will have to be made for other classes of bank employees in the different areas.”

Since the date of the decision of the Labour Appellate Tribunal the Second Pay Commission has made its report and there has been an upward revision of the total emoluments payable to employees in the Central Government. The total emoluments payable to a lower division clerk at Bombay at the initial start have gone up from Rs. 130 inclusive of compensatory allowance and house rent to Rs. 156 inclusive of compensatory allowance and house rent. As regards the concerns referred to by the Labour Appellate Tribunal there has been a considerable upward revision in the total remuneration of employees. The following is a comparative statement showing the changes that have taken place since the date of the Labour Appellate Tribunal decision in the total emoluments payable to a clerk at the initial start by a large number of concerns referred to by the Labour Appellate Tribunal:—

Concerns mentioned in paragraph 100 of the Labour Appellate Tribunal Decision	Total minimum emoluments as shown in the Labour Appellate Tribunal decision at page 66.	Total minimum emoluments when the all-India index number was 123 (Base 1949=100)	Remarks
<i>Bombay</i>			
1. Burmah Shell	195.00	224.65	
2. Standard—Vacuum	190.00	224.65	
3. General Motors	170.00	..	Closed down
4. Ford Motors	154.56	..	Closed down
5. Glaxo Laboratories	161.69	192.32	
6. Imperial Tobacco	195.00	225.00	

Concerns mentioned in paragraph 100 of the labour Appellate Tribunal Decision	Total minimum emoluments as shown in the Labour Appellate Tribunal decision at page 66	Total minimum emoluments when the all India index number was 123 (Base 1949=100)	Remarks
7. Hindustan Vanaspati	Hindustan Levers.	174.87	220.00
8. Lever Brothers			
9. United Traders			
10. Tata Oil Mills	154.56	178.65	
11. Volkart Brothers (Voltas)	135.00	183.60	
12. Greaves Cotton	154.56	193.50	(Under appeal in Supreme Court)
13. Swastik Oil Mills	149.56	179.75	
14. Larsen & Toubro	161.12	190.86	
15. Grahams Trading Co.	154.56	168.54	
16. Imperial Chemicals	139.00	176.00	
17. Tata Industries	120.00	..	Not available.
18. Associated Cements	138.00	169.00	
19. Oriental Assurance	124.50	154.39	Now part of Life Insurance Corpora- tion.
20. Reserve Bank of India	142.50	..	Under adjudication.
21. British Insulated Callenders Cables, Ltd. (Indian Cables)	138.00	178.00	
22. Bombay Gas Co.	125.00		Not available.
23. Forbes, Forbes Campbell	151.00	161.25	

NOTE.—Existing dearness allowance in the concerns in Bombay is calculated on Bombay consumer price index slab (411—420) for February 1961 at 420 Bombay index number when the corresponding all-India consumer price index with base as 1949, was 123.

If the method adopted by the Labour Appellate Tribunal for the purpose of fixing the total emoluments of a clerk in an A Class bank in Area I is adopted, there is a good case made out for revision of the emoluments of workmen in the banking industry.

(xvii) New Scales of Pay

5.179. There is considerable material placed before me to show that as a result of the awards of adjudicators and wage boards and agreements arrived at between employers and employees, there has been a considerable increase in the level of total emoluments paid by various concerns. Some of these are comparable and some are not. By and large, they show that there is an upward trend in wages payable both to the members of the clerical staff and members of the subordinate staff.

5.180. It has been strongly urged on behalf of the banks that the Sastry Award as modified having linked the dearness allowance with the consumer price index number has provided for an increase in the amount of wages having regard to the

increase in the cost of living and that no case exists for any further increase in the remuneration payable to workmen. There is no doubt that workmen are being paid more to-day than what they were receiving at the time when the Labour Appellate Tribunal's decision was implemented. The workmen, however, contend that there is no increase in their real wages and that, on the contrary, there is considerable erosion in their real wages having regard to the increase in the cost of living and the reduction in the purchasing power of money. The arithmetical erosion that has taken place has already been set out earlier in this chapter. A member of the clerical staff employed by an A Class Bank in Area I in the first year of his services receives at the Index No. 123 (1949=100) by way of basic pay and dearness allowance Rs. 152.85 and Rs. 8 as house rent allowance if he is employed at Bombay and Calcutta and Rs. 6 as house rent allowance if he is employed at other places with population over 7 lakhs. The question that arises for consideration is whether what is being given under the Sastry Award as modified is sufficient having regard to the changes in the circumstances that have taken place.

5.181. Having considered all aspects of the matter, I am of the view that to the extent that prevailing rates of wages in similar occupations in the same localities play a part in the fixation of wages, the workmen have made out a case for an upward revision of their emoluments.

5.182. For the purpose of constructing the pay scales one of the important factors to be considered is the need of the workmen at various stages of their lives whilst they are in service. For this purpose workmen may be divided broadly in two categories, namely, those who are members of the clerical staff and those who are members of the subordinate staff. The case of the members of the supervisory staff is being separately considered by me. It would be necessary to consider what would be the minimum wage and what would be a fair wage. In order that a proper wage structure may be constructed in an all-India industry like banking with banks having branches spread all over the country, widely differing in size and earning capacity and situated in places which are not similar to one another, it would be necessary to have an enquiry made as regards the needs of the workmen in various areas, having regard to the class of society from which they generally hail, having regard to the conditions prevailing at the places where they are working and having regard to the social and economic conditions prevailing in the country. The pattern of consumption, the prices of essential commodities and the needs of the workmen vary in different parts of the country. Even at the same place the needs of the workmen differ having regard to the strata or class of society from which they are drawn and having regard to the various stages in their lives.

5.183. Decisions of Tribunals given in the past have been very strongly criticised before me as having been given without adequate data. Even the norms adopted have been questioned. The data before me which may be considered reliable and on which a decision could be based in connection with the needs of the members of the clerical staff and the members of the subordinate staff in various areas in the country in which the offices of banks are situated, at various stages of their lives is meagre. Even as regards the prices of necessities like food, clothing and housing in various parts of the country, there is hardly any reliable evidence. When wage scales have to be constructed with reference to a base year it would be proper to consider the needs of the workmen having regard to that base year and having regard to the type of wage intended to be provided. After fixing such pay scales a formula for payment of the dearness allowance would have to be evolved to provide against the changes in the cost of living above the level prevailing in the base year. Unfortunately, there is no material before me from which I could build up wage scales with reference to the needs of workmen in terms of money for the base year referred to by me.

5.184. From the very nature of the proceedings before me it is not open to me to carry on any independent inquiry or investigation of my own for the purpose of gathering material from which such scales could be built up.

5.185. In the absence of such material, the best thing that I can do under the circumstances is to consider what generally should be given by way of total emoluments consisting of basic pay and dearness allowance to workmen in different classes of banks in different areas having regard to all the available material before me and having regard to the various factors which play a part in the fixation thereof. In order to construct pay scale with reference to the base year 1949, it would be necessary to consider what should be provided with reference to that base year having regard to the scheme of dearness

allowance which would yield what is generally intended to be given at the index level at which it is intended to be given. For the purpose of constructing such pay scales, I have adopted the following conversion formula:—For every decrease of one point in the all India working class consumer price index number base 1949=100 below the aforesaid level there should be, in the case of the members of the clerical staff a three fourth per cent decrease in such total emoluments i.e. the rate of the notional neutralisation to be taken into account should be 75 per cent. As regards the members of the subordinate staff I have considered that for every decrease of one point from such level there should be one per cent decrease in such total emoluments, the rate of neutralisation in their case being 100 per cent. The question of neutralisation has been dealt with in detail in the chapter relating to dearness allowance.

5.186. In constructing the pay scales for workmen employed in A Class banks, B Class banks and C Class banks excluding banks in the Excepted List in Area I, Area II and Area III I have provided a combined running scale which would facilitate further adjustments when a bank is upgraded to a higher class or a place is upgraded to a higher Area. I have constructed the pay scales for workmen employed in banks in the Excepted List keeping in view the limited paying capacity of those banks. I have provided for them total emoluments consisting of basic pay and dearness allowance which I consider to be the minimum.

5.187. Having very carefully considered every aspect of the matter, I fix the following pay scales for workmen other than those belonging to the subordinate staff with reference to the base year 1949.

SCALES OF PAY

'A' Class Banks

In Rupees.

Area	
I :	$\frac{140-6-182-11-281-13-307-15-322-E.B.-15-337-16-369-18-405}{(1-7 \quad 9 \quad 2 \quad 1 \quad 1 \quad 2 \quad 2) \text{ years}}$
II :	$\frac{130-5-140-6-182-11-281-13-294-E.B.-13-307-15-337-16-369}{(1-2 \quad 7 \quad 9 \quad 1 \quad 1 \quad 2 \quad 2) \text{ years.}}$
III :	$\frac{120-5-140-6-182-11-270-E.B.-11-281-13-307-15-337}{(1-4 \quad 7 \quad 8 \quad 1 \quad 2 \quad 2) \text{ years.}}$

'B' Class Banks

Area	
I :	$\frac{130-5-140-6-182-11-281-13-294-E.B.-13-307-15-337-16-369}{(1-2 \quad 7 \quad 9 \quad 1 \quad 1 \quad 2 \quad 2) \text{ years.}}$
II :	$\frac{120-5-140-6-182-11-270-E.B.-11-281-13-307-15-337}{(1-4 \quad 7 \quad 8 \quad 1 \quad 2 \quad 2) \text{ years.}}$
III :	$\frac{112-4-120-5-140-6-182-11-248-E.B.-11-281-13-307}{(1-2 \quad 4 \quad 7 \quad 6 \quad 3 \quad 2) \text{ years.}}$

'C' Class Banks except Banks in the Excepted List.

Area	
I :	$\frac{120-5-140-6-182-11-270-E.B.-11-281-13-307-15-337}{(1-4 \quad 7 \quad 8 \quad 1 \quad 2 \quad 2) \text{ years.}}$
II :	$\frac{112-4-120-5-140-6-182-11-248-E.B.-11-281-13-307}{(1-2 \quad 4 \quad 7 \quad 6 \quad 3 \quad 2) \text{ years.}}$
III :	$\frac{104-4-120-5-140-6-182-11-226-E.B.-11-281}{(1-4 \quad 4 \quad 7 \quad 4 \quad 5) \text{ years.}}$

(The combined running scale will therefore be as follows:—

104—108—112—116—120—125—130—135—140—146—152—158—164—170—176—
182—193—204—215—226—237—248—259—270—281—294—307—322—337—353—369—
387—405).

Banks in the Excepted List.

Area

I :	$\frac{96-4-120-5-140-6-182-11-204-E.B.-11-259}{(1-6 \quad 4 \quad 7 \quad 2 \quad 5) \text{ years.}}$
II :	$\frac{88-4-120-5-140-6-182-E.B.-11-237}{(1-8 \quad 4 \quad 7 \quad 5) \text{ years.}}$
III :	$\frac{80-4-120-5-140-6-170-E.B.-6-182-11-215}{(1-10 \quad 4 \quad 5 \quad 2 \quad 3) \text{ years.}}$

5.188. Having very carefully considered every aspect of the matter, I fix the following pay scales for members of the subordinate staff with reference to the base year 1949.

'A' Class Banks.

Area

I :	$\frac{86-1-105-E.B.-1-108-2-112}{(1-19 \quad 3 \quad 2) \text{ years.}}$
II :	$\frac{80-2-86-1-102-E.B.-1-107}{(1-3 \quad 16 \quad 5) \text{ years.}}$
III :	$\frac{74-2-86-1-99-E.B.-1-104}{(1-6 \quad 13 \quad 5) \text{ years.}}$

'B' Class Banks.

Area

I :	$\frac{80-2-86-1-102-E.B.-1-107}{(1-3 \quad 16 \quad 5) \text{ years.}}$
II :	$\frac{74-2-86-1-99-E.B.-1-104}{(1-6 \quad 13 \quad 5) \text{ years.}}$
III :	$\frac{68-2-86-1-96-E.B.-1-101}{(1-9 \quad 10 \quad 5) \text{ years.}}$

'C' Class Banks except Banks in the Excepted List.

Area

I :	$\frac{74-2-86-1-99-E.B.-1-104}{(1-6 \quad 13 \quad 5) \text{ years.}}$
II :	$\frac{68-2-86-1-96-E.B.-1-101}{(1-9 \quad 10 \quad 5) \text{ years.}}$
III :	$\frac{62-2-86-1-93-E.B.-1-98}{(1-12 \quad 7 \quad 5) \text{ years.}}$

(The combined running scale will therefore be as follows :—

62—54—56—68—70—72—74—76—78—80—82—84—86—87—88—89—90—91—92—
93—94—95—96—97—98—99—100—101—102—103—104—105—106—107—108—110—112)

Banks in the Excepted List.

Area	
I :	$\frac{50-1-69-E.B.-1-74}{(1-19 \quad \quad \quad 5 \quad) \text{ years.}}$
II :	$\frac{46-2-50-1-67-E.B.-1-72}{(1-2 \quad \quad \quad 17 \quad \quad \quad 5 \quad) \text{ years.}}$
III :	$\frac{42-2-50-1-65-E.B.-1-70}{(1-4 \quad \quad \quad 15 \quad \quad \quad 5 \quad) \text{ years.}}$

(xviii) Poddars, Money-Testers, Collecting Sircars and Gollas

5.189. Under the Sastry Award it is provided that persons known as poddars, money-testers, collecting sircars and gollas should be classed as clerks but it is provided that in their case the maximum will be "the pay at the end of the twentieth year of service". There is a small number of such persons still employed in the State Bank of India and in a few other banks. In some banks these persons are already treated as clerks, in all respects. On behalf of the workmen it has been claimed that poddars, money-testers, collecting sircars and gollas should be treated on the same footing as the employees in the clerical grade in all respects.

Once these persons have been employed in the clerical grade, there is no particular reason pointed out to me why they should have a lower maxima provided for them. Taking everything into consideration I think it is desirable that this limit upon the maxima should be removed and that these employees should be treated like other employees in the same grade and I direct accordingly.

5.190. I give directions similar to those contained in paragraph 121 (5) of the Sastry Award. That paragraph runs as follows:—

"No employee shall have his basic pay reduced by being transferred to an area where a lesser pay scale applies even though such basic pay may be more than the maximum of the scale fixed for the new station, and he will continue to have the usual increments as from such basic pay onwards. An employee who is transferred to a place where a higher pay scale applies shall have the benefit of such higher scale of that area, i.e. his basic pay should be refixed in the higher scale according to the length of service rendered by him, together with the benefits of any special increment and subject to the deduction of any increment withheld. If, however, such an employee is reverted back from a higher area to a lower area he will thereafter be governed by the pay scale of that area provided however he has not completed a total service of one year in the higher area."

(xix) Part-time Employees

5.191. The Sastry Tribunal in paragraph 123 of its award has observed that part-time employees cannot expect payment at the full rates provided by it. It fixed for them a minimum of one-third of the appropriate rate of pay and dearness allowance of full time employees if such part-time employees worked for not less than 7 hours per week. That Tribunal did not think it appropriate to lay down a more detailed graduated scale in accordance with the hours of work. The All India Bank Employees Association has claimed that there should be no part-time employees except sweepers and cleaners and that part-time employees who are required to work for not more than three hours a day should at least be granted 50 per cent of the scales demanded for full time employees. Demands have also been made by the All India Bank Employees Federation, the All India State Bank of India Staff Federation and the State Bank of India Staff Union, Andhra Pradesh, and others with a view to achieving improvements in the present conditions of service of this category of employees. These claims made on behalf of the workmen have been opposed by the banks. There does not appear to be any cogent reason for acceding to the demands of the workmen in this connection. In the present state of the record it is not possible for me to give any directions other than those given under the Sastry Award. I direct that a minimum of one-third of the appropriate rate of pay and dearness allowance should be given to part-time employees if such part-time employees work for not less than 7 hours per week, this being the minimum prescribed for them.

(xx) Apprentices

5.192. About apprentices the Sastry Tribunal in paragraph 124 of its award has stated as follows:—

“As regards apprentices, those who are unpaid will not be workmen within the definition of the term. Such of them as are paid will, no doubt, satisfy the terms of the definition. It is not possible for us to lay down a general pay scale etc. for them. That will depend upon the nature and quantity of work that is entrusted to them. As this is a variable element a uniform rule is not possible. It must be left to the discretion of the banks to decide which apprentices should be paid and, if so, how much.”

The scales of pay provided by me are not intended to apply to apprentices and I give directions in connection with them similar to those quoted above from the Sastry Award.

(xxi) Probationers

5.193. The All India Bank Employees Association, the All India Bank Employees Federation, the All India State Bank of India Staff Federation and other workmen's organisations have demanded that the service conditions, pay and allowances applicable to permanent workmen should also be applicable to probationers. This demand has been opposed by some of the banks. No case has been made out for modifying the provisions of the Sastry Award in this connection, and I give a direction similar to the one in the Sastry Award that the probationers should be paid the same emoluments as have been fixed for confirmed workmen and that the above pay scales laid down by me will apply to the probationers also.

(xxii) Cooks and Domestic Servants

5.194. It sometimes happens that banks pay for persons who are employed as cooks and domestic servants to do the work exclusively for officers of the bank at the residence of such officers. By reason of the fact that they have been employed by the bank, they may be liable to be regarded as workmen. In paragraph 334 of its award the Sastry Tribunal has held that domestic servants who are appointed and paid by the bank are workmen. Some of them may be provided with a place of residence free of charge and some of them may be provided with free food. I have not before me the exact terms and conditions under which they work. Even if they were workmen I am unable to lay down any scales of pay for them in the absence of any material on which the same could be laid down. The scales of pay herein provided are not intended to apply to them. The banks will be at liberty to fix such emoluments for them as they consider reasonable and just.

5.195. Cases of employees have been brought to my notice where they are attached to establishments of banks situated in a higher area but are posted for work in places situated in a lower area where the bank has no establishment. This often happens in the case of godown keepers. In such cases I direct that the employees will draw wages applicable to the establishments to which they are attached.

(xxiii) Supervisory Staff

5.196. The Sastry Tribunal has provided special allowances for supervisors, superintendents, sub-accountants, departmental in-charges and employees in charge of treasury pay offices employed in A, B, C and D Classes of banks, the amounts provided being Rs. 50, Rs. 45, Rs. 40 and Rs. 35 respectively.

5.197. The All India Bank Employees Association has by its statement of claim demanded separate scales of pay for “workmen doing supervisory nature of duties for the different classes of banks.” The scales demanded for them are as under:—

Supervisory Grade II

“A” Class Banks : Rs. 400—25—525—30—645.

“B” Class Banks : Rs. 340—20—400—25—525—30—555.

“C” Class Banks : Rs. 300—20—400—25—500.

Supervisory Grade I

"A" Class Banks : Rs. 500—25—525—30—675—35—780.

"B" Class Banks : Rs. 450—25—525—30—675—35—710.

"C" Class Banks : Rs. 400—25—525—30—645.

It has not in its statement of claim specified the categories of persons who should be put in supervisory grade II and the categories of persons who should be placed in supervisory grade I. The only thing that has been stated is as under:—

"Workmen doing supervisory work in different banks and designated as Assistant Managers, Accountants, Sub-Accountants, Joint Accountants, Assistant Accountants, Junior and Senior Assistants, Junior and Senior Officers, Supervisors, Probationary Assistants, Departmental Incharges, Persons performing supervisory work like Head Cashiers, Cash Key Holders, Cashiers-in-charge of cash, Treasurer Representatives, Head Clerks, Custodian Safe Deposit Vaults, Section Officers, Passing Officers, Tellers, Checkers etc. should all be placed in appropriate supervisory grades."

In paragraph 59 of its statement of claim the Association has stated that the above list is not exhaustive and that the Association will submit at the time of the hearing various other nomenclatures and the duties performed by these categories of workmen to enable this Tribunal to place them in the proper supervisory grades.

5.198. The All India Bank Employees Federation has asked for a grade of Rs. 250-15-400-25-650 for banks in group A which according to its charter of demands is to consist of banks with working funds of Rs. 15 crores and more and a grade of Rs. 200-15-350-20-550 for banks in group B which is to consist of banks with working funds of less than Rs. 15 crores for the supervisory staff, viz., "Assistant Managers, Sub-Managers, Sub-Agents, Superintendents, Accountants and/or Officer Grade I, Additional or Assistant Accountants, Supervisors and/or Officers Grade II, Departmental Incharges, Sub-Accountants, Junior Officers, Probationer Assistants, Clerks Incharges, Cashier Incharges, Officer Incharges, Head Cashiers, Senior Assistants, Junior Assistants, Tellers Godown Inspectors, Inspectors Auditors, Treasurer's Representatives, Head Clerks, Chief Clerks, Assistants, Caretakers and Caterers etc."

5.199. The All India State Bank of India Staff Federation has claimed a special grade of Rs. 500—20—700 for Sub-Accountants and Head Cashiers.

5.200. Some more unions have made claims in respect of the Supervisory Staff and the grades as claimed by them are given below:—

- | | | |
|--|------------------------|------------------------------|
| 1. State Bank of Patiala
(ALL Cadres) Em-
ployees Association. | Supervisory Grade I : | Rs. 375—25—525—30—675—35—815 |
| | Supervisory Grade II : | Rs. 280—20—400—25—525—30—645 |
| 2. Indian Overseas Bank
Employees' Union,
Madras. | Supervisory Staff : | Rs. 400—25—525—30—675 |
| 3. Vadodra Rajya Bank
Nokar Sangh. | Supervisory Grade I : | |
| | A : | Rs. 450—30—570—35—745 |
| | B : | Rs. 400—25—500—30—590—35—650 |
| | C : | Rs. 350—25—450—30—600 |
| | Supervisory Grade II : | |
| | A : | Rs. 350—25—450—30—600 |
| | B : | Rs. 300—20—380—25—455—30—515 |
| | C : | Rs. 260—20—350—25—475 |
| 4. South Gujarat Bank of
Baroda Employees
Union, Surat. | Supervisory Grade I : | Rs. 500—25—525—30—675—35—780 |
| | Supervisory Grade II : | Rs. 400—25—525—30—645 |

5. Allahabad Bank Employees Union, Calcutta.	A :	Rs. 450—25—525—30—675—35—780
	B :	Rs. 400—25—525—30—675—35—710
	C :	Rs. 350—25—475—30—655
6. Central Bank of India Employees Association, Amritsar.		Rs. 250—15—400—25—650

The letters A, B and C represent the class of banks.

5.201. The All India Bank of Baroda Employees Federation has made the same demand as the All India Bank Employees Association. The Central Bank of India Employees Associations at Patna and Muzaffarpur and the Behar Provincial Central Bank of India Employees Association, Muzaffarpur have followed the All India Bank Employees Federation in making their demands. The Vadodra Rajya Bank Nekar Sangh has included Assistant Managers, Sub-Managers, Sub-Agents, Superintendents, Accountants and/or Officer Grade I in Supervisory Grade I, and in Supervisory Grade II, it has included Assistant Accountants, Supervisors, and/or Officers Grade II, Departmental in charge, Sub-Accountants, Junior Officers, Probationary Assistants, Clerks in charge, Cashiers in charge, Officers in charge, Head Cashiers, Senior Assistants, Junior Assistants, Tellers, Godown Inspectors, Inspectors, Auditors, Treasurers Representatives, Head Clerks, Chief Clerks, Assistants, Caretakers and Caterers etc. The State Bank of Patiala (All Cadres) Employees Association has pointed out that the following grades were introduced by the bank for the supervisory staff from 1st October 1958:—

Grade I: Rs. 340—20—500—EB—25—550—EB—30—730.

Grade II: Rs. 175—15—220—EB—20—320—EB—20—440—EB—20—500.

Grade III: Rs. 130—12½—155—EB—15—200—EB—15—290—EB—20—310.

The Association has submitted that besides Accountants and Assistant Accountants who are at present designated as B and C Class Managers, the Senior assistants, stenographers, and head cashiers, should be placed in Supervisory grade II.

5.202. The All India Bank of Baroda Employees Federation has, by a supplementary statement, pointed out that all employees who are promoted by the Bank of Baroda to the Assistant's Grade have to sign an agreement which, it is alleged is completely one-sided and did not give adequate protection to employees who signed it. The Federation has therefore demanded that in connection with the emoluments payable to the employees working in the supervisory cadre, the Bank of Baroda should be specifically directed to discontinue the practice of requiring the 'Assistant' to sign the agreement referred to above.

5.203. The Indian Banks Association has in its written statement contended that the Tribunal has no jurisdiction to lay down any terms or conditions of service including scales of emoluments for those employed in a supervisory capacity who draw emoluments exceeding Rs. 500 per mensem or who exercise either by the nature of the duties attached to the office or by reason of the powers vested in them functions mainly of a managerial or administrative nature, as such employees would not be "workmen" within the meaning of the Industrial Disputes Act and would be outside the present adjudication. Without prejudice to the said contention, it has submitted that "there is no scope or justification for laying down separate scales for supervisory grades and in any event, the scales demanded are very much on the high side." It has further submitted that mere designation or nomenclature cannot decide the grade which is solely determined by the nature of duties performed and the responsibilities undertaken by the individual employee concerned. The Bombay Exchange Banks Association has contended that the present reference covered only those employees who fell within the definition of "workman" contained in the Industrial Disputes Act, 1947. It has submitted that the Tribunal should not prescribe pay scales for the supervisory cadre "as it will not be possible, with a fluctuating dearness allowance scheme, to postulate at what stage an employee performing supervisory duties ceases to be a workman." The State Bank of India, in reply to the statement of claim of the All India State Bank of India Staff Federation, in connection with its demand for a grade for sub-accountants and head cashiers, has submitted that all employees exercising supervisory duties and drawing emoluments over Rs. 500 per month are not workmen within the meaning of the Industrial Disputes Act and are not covered by this adjudication and that in particular the sub-accountants and head cashiers of the

bank are not workmen. The State Bank of Patiala has opposed the demand that senior assistants and stenographers should be placed in the Supervisory Grade II and has stated that the senior assistants perform the same duties as junior assistants except for a few who have been entrusted with restricted checking and passing powers and that it would be unreasonable to place them in the Supervisory Grade. It is urged that this Tribunal has no jurisdiction to deal with employees who do not fall within the definition of 'workman' contained in the Industrial Disputes Act, 1947, and that even in the case of employees exercising supervisory powers and drawing wages below Rs. 500 this Tribunal should not attempt to fix a wage scale as it could not be postulated, at what stage in the scale such an employee would be drawing by way of wages as defined in the Act an amount over Rs. 500. It is also submitted that this Tribunal has no jurisdiction to deal with employees exercising managerial functions or with supervisory staff carrying out administrative functions and duties. The Kerala Bankers Association objects to any claim as regards a scale of pay for the supervisory staff. The Northern India Banks Association has submitted that considering the nature of work performed by employees in the supervisory grades, the existing allowances payable to them are adequate, that in view of the peculiar nature of banking business and the need for entrusting to officers, at each branch office, responsible jobs, involving the grant of powers of attorney, all members of the supervisory staff holding a power of attorney should be classed with the managers and officers entrusted with administrative duties and should be taken out of the category of workmen. The National Bank of Lahore has contested the demands of the employees about pay scales to the supervisory staff and has submitted that there is no justification for introducing separate scales of pay for workmen discharging duties allotted to them, and that mere designation associated to the duties performed by a workman cannot entitle him to any higher wage. The Bharatha Lakshmi Bank has submitted that there should be no supervisory Grades I and II for D Class banks. It has pointed out that the supervisory Grade II suggested by the employees for C Class banks is even 'costlier' than the grade of Agents of this bank which is Rs. 140—10—240 besides dearness allowance and rent free quarters or rent in lieu thereof and that the highest point in this grade is less than the starting point in the grade suggested by the employees. The Jaya Laxmi Bank considers the grades demanded for Supervisory Grade II and Supervisory Grade I as beyond the capacity of small banks and suggests that there should be no supervisory grades. The Miraj State Bank has submitted that on any showing the bank is bound to be classified in D Class, that the demand made by the All India Bank Employees Association so far as the grade of the supervisory staff is concerned, is not applicable to the Miraj State Bank as there was no demand in respect of Supervisory staff of D Class banks and that if any such demand was made the bank should be permitted to file its written statement. It has, however, submitted that the demand made against the C Class banks in respect of the supervisory staff is high and that the same should be rejected.

5.204. In connection with the supplementary statement of claim of the All India Bank of Baroda Employees' Federation relating to service conditions of employees in the supervisory cadre designated as assistants in the bank, the Bank of Baroda has submitted that these assistants cannot be equated with the supervisors in the clerical grade who get a special allowance as prescribed under the Sastry Award, that these officers have a very wide scope to rise high according to their merits and can go up to the highest executive position in the bank, that their emoluments in the earlier years of service may not be high but they form the junior executive cadre and are the potential senior executives. It has, therefore, submitted that these persons form a separate class whose terms and conditions of service must by the nature of things be left to the bank and that the Tribunal should refuse to lay down any service conditions for them. It further states that it has taken good care of these officers and that they could not be benefited by the Tribunal laying down any hard and fast rules about their terms and conditions of service, and that the bank is the best judge of the merits of these officers and therefore a request is made that no directions be given on this issue. The Bank further submits that if the Tribunal lays down terms and conditions of service of the supervisory staff and holds that the assistants in the bank drawing a total emolument of less than Rs. 500 are covered by this reference, then an option be given to such assistants to choose between the totality of the terms and conditions of service as prescribed by this Tribunal and the conditions of service that might be in force from time to time in the bank, and that the assistants who opt for the conditions under the award would not have to sign the agreement and therefore a direction on the point of agreement to be signed by the assistants will not be necessary.

5.205. On behalf of the All India Bank Employees Association it was stated at the hearing that supervisory grade II had been demanded for the supervisors who are now receiving a supervisory allowance under the Sastry Award and that supervisory grade I was demanded for "bona fide supervisors", in the sense in which that expression was used in America in the Fair Labour Standard Act.

5.206. At the hearing Shri Sule submitted (1) that workmen under the Industrial Disputes Act can raise an industrial dispute for themselves and for a section of them at any level; (2) that persons who are at present workmen can raise an industrial dispute as regards their service conditions, not only at all stages when they continue to be workmen but also when having regard to a future possibility, they cease to be workmen and continue in service of the same employer; and (3) that workmen can raise an industrial dispute for employees in the same establishment who are non-workmen right from the start, provided they have a direct or substantial interest in the dispute of those non-workmen and have a community of interest with them. It was urged that workmen were entitled to raise a dispute about the scales of pay and other service conditions of the members of the supervisory staff irrespective of the amount of wages payable to them.

5.207. On behalf of a number of banks it was denied that there was any community of interest between the supervisory staff and the clerical and subordinate staff or that the clerical and subordinate staff were directly or substantially interested in the terms of employment of the members of the supervisory staff. It was stated that no demand relating to the supervisory staff had been made and presented to the banks. It was submitted that the Tribunal had no jurisdiction to provide wage scales for persons who were not workmen and that the wage structure as a whole would be rendered bad in law even if a part of it was bad in law as the Supreme Court had clearly indicated in the Express Newspapers case that the wage structure was an integrated whole. It was submitted that in so far as the supervisory staff could be dealt with under an award there should be an over-riding clause to the effect that at no stage and in no case the monthly wages should exceed the upper limit of Rs. 500. It was submitted that in respect of those workmen who were doing supervisory work only as a part of their duties (sometimes called "Sastry supervisors") the directions given by the Sastry Tribunal about special allowance in paragraph 164(b) of its Award should be retained, that some such provision should be made for those supervisors who came within the ambit of the extended definition of 'workman' under the Industrial Disputes (Amendment) Act, 1956 and that option should be given to them for choosing between the special allowance awarded by the Tribunal and the pay scales which may be in force in banks.

5.208. The question about the jurisdiction of the Tribunal to make an award in connection with members of the supervisory staff has been argued by both the sides at considerable length. The expression "workman" has been defined by section 2(s) of the Industrial Disputes Act, 1947, as under:—

" 'Workman' means any person (including an apprentice) employed in any industry to do any skilled or unskilled manual, supervisory, technical or clerical work for hire or reward, whether the terms of employment be expressed or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person

- (i) who is subject to the Army Act, 1950, or the Air Force Act, 1950, or the Navy (Discipline) Act, 1934; or
- (ii) who is employed in the police service or as an officer or other employee of a prison, or
- (iii) who is employed mainly in a managerial or administrative capacity; or
- (iv) who, being employed in a supervisory capacity, draws wages exceeding five hundred rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature."

This definition shows that except for the persons specified in clauses (i), (ii), (iii) and (iv) the expression "workman", *inter alia*, means any person employed in any industry to do any supervisory work for hire or reward, whether the terms of employment be expressed or implied. Even if a person has been employed in any industry to do any supervisory work for hire or reward, he is not liable to be considered to be a workman if he is employed mainly in a managerial or administrative capacity or who exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature. Another exception provided is in the case of persons employed in a supervisory capacity, who draw wages exceeding Rs. 500 per mensem. The moment such persons draw wages exceeding Rs. 500 per mensem they would cease to be workmen. The expression "wages" has been defined by section 2(rr) of the Industrial Disputes Act, 1947, to mean "all remuneration capable of being expressed in terms of money, which would, if the terms of employment, express or implied, were fulfilled, be payable to a workman in respect of his employment or of work done in such employment, and includes—

- (i) such allowances (including dearness allowance) as the workman is for the time being entitled to;
- (ii) the value of any house accommodation, or of supply of light, water, medical attendance or other amenity or of any service or of any concessional supply of foodgrains or other articles;
- (iii) any travelling concession; but does not include—
 - (a) any bonus;
 - (b) any contribution paid or payable by the employer to any pension fund or provident fund or for the benefit of the workman under any law for the time being in force;
 - (c) any gratuity payable on the termination of his service."

5.209. The All India Bank Employees Association has claimed wages which in numerous cases exceed Rs. 500 per mensem for persons employed in the banking industry to do supervisory work for hire or reward. It seeks to justify the claim on the ground that workmen having regard to the definition of the expression "industrial dispute", were entitled to raise a dispute in connection with the terms of employment "of any person". The expression "industrial dispute" has been defined by section 2(k) of the Industrial Disputes Act as under:—

" 'Industrial dispute' means any dispute or difference between employers and employers, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the term of employment or with the conditions of labour, of any person."

It was submitted on behalf of the employees that they had a right to raise a dispute not merely in connection with the terms of employment of any workman, but also in connection with the terms of employment of a person who did not fall within the definition of the expression "workman".

5.210. The definition of the expression "industrial dispute" has come up for consideration on several occasions before Tribunals and Courts of Law. The Supreme Court, in the case of Workmen of Dimakuchi Tea Estate (Assam Chah Karmachari Sangh) and Dimakuchi Tea Estate, reported in 1958 (1) Labour Law Journal at page 500 (same as 1958 Supreme Court Reports, Page 1156) had occasion to consider the meaning of the expression "any person". In dealing with the question whether a dispute in relation to a person who is not a workman falls within the scope of the definition of industrial dispute given in section 2(k), the Supreme Court has observed that the expression "any person" cannot mean anybody and everybody in this wide world, that a person in respect of whom the employer-employee relation never existed or can never possibly exist cannot be the subject matter of a dispute between employers and workmen and that the definition clause must be read in the context of the subject-matter and scheme of the Act and consistently with the objects and other provisions of the Act. In dealing with the provisions as they stood prior to the enlargement of the definition of the term "workman" by the Industrial Disputes (Amendment) Act, 1956, the Supreme Court has observed as follows:—

"The Act is primarily meant for regulating the relations of employers and workmen—past, present and future. It draws a distinction between

"workmen" as such and the managerial or supervisory staff, and confers benefit on the former only."

The Supreme Court has further stated that it seemed fairly obvious that if the expression "any person" was given its ordinary meaning, then the definition clause would be so wide as to become inconsistent not merely with the objects and other provisions of the Act, but also with the other parts of that very clause. It is also stated that the dispute between the employers and workmen must be a real dispute capable of settlement or adjudication by directing one of the parties to the dispute to give the necessary relief to the other and that "it is also obvious that the parties to the dispute must be directly or substantially interested therein, so that if workmen raise a dispute, it must relate to the establishment or part of the establishment in which they are employed". As observed by the Supreme Court, the expression "any person" in the definition clause means a person in whose employment or non-employment, or terms of employment, or conditions of labour, the workmen as a class have a direct or substantial interest, with whom they have, under the scheme of the Act, a community of interest.

5.211. In dealing with the question of persons belonging to the supervisory staff, having regard to the definition of the term "workman" as it then stood, the Supreme Court, at page 509, has expressed itself in the words following:—

"Can it be said that workmen as a class are directly or substantially interested in the employment, non-employment, terms of employment or conditions of labour of persons who belong to the supervisory staff and are, under provisions of the Act, non-workmen on whom the Act has conferred no benefit, who cannot by themselves be parties to an industrial dispute and for whose representation the Act makes no particular provision? We venture to think that the answer must be in the negative."

At page 510 the Supreme Court has observed as under:—

"It is the community of interest of the class as a whole—class of employers or class of workmen—which furnishes the real nexus between the dispute and the parties to the dispute."

5.212. On behalf of the employees it is contended in the present case that they have a direct and substantial interest in the dispute relating to the members of the supervisory staff, even if some of them may not be 'workmen' within the meaning of the definition given in the Act. They contend that a person who is employed in a supervisory capacity, who is drawing wages which do not exceed Rs. 500 and who is a workman within the meaning of the amended definition of that expression is interested in receiving wages in excess of Rs. 500 and in demanding a scale of wages which would take him beyond Rs. 500 and that he is entitled to raise such a dispute even though when he receives wages in excess of Rs. 500 he would cease to be a workman. In such circumstances, all persons belonging to this class would have a direct and substantial interest in asking for a scale of pay which would take them beyond Rs. 500. This, however, would not justify the making of a claim for a scale which, at the very commencement, provides them with "wages" as defined in section 2(rr) in excess of Rs. 500. In that event, whoever is fitted in that scale would not be a workman at any stage in that scale and the mere fact that some workmen may, by way of promotion, or otherwise be fitted into that scale, would not give the workmen as a class that community of interest which is necessary for the purpose of raising an industrial dispute in connection with such non-workmen.

5.213. Even though by reason of the community of interest, workmen may be entitled, having regard to the definition of the expression "industrial dispute", to raise a dispute in connection with the terms of employment of themselves when they become non-workmen by reason of their wages exceeding the limit of Rs. 500, there is another objection in connection with the adjudication of such a dispute by a National Industrial Tribunal. A National Industrial Tribunal is constituted under the provisions of section 7B of the Industrial Disputes Act, 1947, for the adjudication of industrial disputes, which, in the opinion of the Central Government, involve questions of national importance or are of such a nature that industrial establishments situated in more than one State are likely to be interested in, or affected by, such dispute. Under the provisions of section 10(1A) the Central Government is empowered, where it is of opinion that any industrial dispute exists or is apprehended and the dispute involves any question of national importance or is of such a nature that industrial establishments situated in more than one State are likely to be interested in, or affected by, such dispute and that the dispute should be adjudicated by a National Tribunal, to refer the dispute or

any matter appearing to be connected with, or relevant to, the dispute, "whether it relates to any matter specified in the Second Schedule or the Third Schedule", to a National Tribunal for adjudication. Before the Central Government can refer a matter, it must relate to any matter specified in the Second or the Third Schedule. The Second Schedule deals with matters which ordinarily fall within the jurisdiction of Labour Courts. Item 6 in the Second Schedule refers to "all matters other than those specified in the Third Schedule". This item cannot cover a dispute relating to the fixation of wages of any class of persons. Section 7 of the Act says that the appropriate Government may, by notification in the Official Gazette, constitute one or more Labour Courts for the adjudication of industrial disputes relating to any matter specified in the Second Schedule. From the scheme of the Act, it is clear that the Labour Courts cannot deal with—questions relating to fixation of scales of pay or wages of any class of persons.

5.214. When we come to the Third Schedule the only item which may have a bearing on the subject is item 1. Item 1 relates to "wages, including the period and mode of payment." Having regard to the definition of the expression "wages" given in section 2(rr), this item can only refer to remuneration payable to a workman. There is no other item under which fixation of scales of pay is liable to fall, with the result that under the provisions of section 10(1A) it is not open to the Central Government to make any reference of an industrial dispute concerning scales of pay or the remuneration payable to a non-workman to a National Tribunal for adjudication. In the order of reference, dated 21st March 1960, the Central Government has referred the dispute between banking companies and corporations specified therein on the one hand, and their workmen on the other, in respect of matters specified in the Second Schedule to the order of reference. The Second Schedule *inter alia* refers to "scales of pay; method of adjustment in the scales of pay." This item in the light of the powers of the Central Government to make a reference would not cover the fixation of scales of pay for non-workmen or payment of remuneration to non-workmen.

5.215. Apart from any other consideration, non-workmen are not before me, and even if I had otherwise the jurisdiction to fix scales of pay for them, I would not be justified in doing so in their absence and without hearing what they may have to say in the matter.

5.216. The demand for different scales of pay for supervisory staff is made on behalf of persons, some of whom are workmen and some of whom are non-workmen. There is no standardised nomenclature adopted by banks in connection with persons employed to do supervisory work. There is no standardisation of duties either. A person under the same designation may in one bank be performing duties and discharging functions different from those which a person bearing the same designation may be performing and discharging in other banks. As regards the supervisory staff not covered by the Sastry Award, the scales of pay are different in different banks. I have not even been supplied with a list showing the designation of persons who are at present drawing the supervisory allowance of Rs. 50 in all the banks which are before me. It would be difficult to describe persons employed to do supervisory work by their designations and fit them into different scales of pay.

5.217. It was suggested that if two scales are fixed, one scale may be applied to those who are drawing the supervisory allowance under the Sastry Award and the other scale may be reserved for those who have been subsequently brought within the definition of "workman" who, before the amendment of 1956, did not fall within the definition of workman. I asked the representatives of workmen to describe to me, by reference to the designations of persons or by reference to duties, the persons who have been included in the definition of "workman" by virtue of the amendment who were not prior thereto so included, but they were unable to do so. There is no evidence before me about the extent of the duties of a supervisory nature discharged by various persons in various banks. Some persons employed to do supervisory work may discharge supervisory functions only for a small period of the day. Various types of functions are combined in a number of banks. I have made every effort to impress upon the parties before me, especially the workmen, the necessity of placing sufficient material before me which would enable me to do justice to the case of the members of the supervisory staff and which would enable me, to the extent that I have the jurisdiction to provide proper scale or scales of wages for persons employed in a supervisory capacity. In the present state of the record, it is impossible to fix any scale or scales of pay in which persons who are employed to do supervisory work could be fitted.

5.218. Having carefully considered all aspects of the matter and having considered all the evidence placed before me, I am left with no alternative except only to fix special allowances for workmen employed in a supervisory capacity, as was done by the Sastry Tribunal after applying to them the scales of pay provided for the clerical staff. Having regard to the scheme relating to the scales of pay adopted by me, I have fixed suitable special allowances for supervisors in A Class banks, in B Class banks and in C Class banks, including banks in the Excepted List. I am conscious of the fact that it is not a very satisfactory way of dealing with the matter. The nature of duties performed by persons who would draw the allowance, the amount of responsibility involved in the performance of the task allotted to such persons and the period of time during which such duties have to be performed may vary from bank to bank and from area to area. In deciding whether a workman is entitled to supervisory allowance, the designation of the workman would not be decisive. In order to entitle a workman to such allowances what would be determinative would be the nature of the duties and functions assigned to him, as has been laid down by the Supreme Court in the case of *Lloyds Bank Limited Vs. Pannalal Gupta* and others, reported in 1961 (1) *Labour Law Journal*, page 18.

5.219. The provision made by this award in connection with giving a special allowance to supervisors is not intended to fetter the discretion of the banks in providing a higher allowance or a separate grade or grades for members of the supervisory staff, if they so desire, or to operate by way of substitution of any existing grade or grades meant for persons who would otherwise be entitled to draw a supervisory allowance under the terms of this award, provided the total wages paid thereunder are not less than what is provided under this award.

(xxiv) Special Allowances

5.220. Under the scheme of the Sastry Award separate scales of pay have been provided for members of the clerical staff and members of the subordinate staff. Among the members of the clerical staff and of the subordinate staff there are various categories of workmen. Wage differentials have been provided for different categories of workmen falling within the aforesaid two broad classes by special allowances. In paragraph 162 of its award the Sastry Tribunal has observed that it was but right that persons with special qualifications or skill required for discharging work carrying with it greater responsibility than routine work should have higher emoluments than an ordinary workman. The Sastry Tribunal further proceeded to observe that there were three ways by which this extra payment may be provided for: (1) the employee may be given additional increments in the same scale; (2) he may be paid a lump sum allowance in addition to his other emoluments or (3) he may be given a higher scale leading up to a higher maximum. The Sastry Tribunal considered that on the whole it was better to adopt either the first or the second method or sometimes even a combination of both. Before the Sastry Tribunal the workmen were opposed to the idea of having more than one scale, while the banks preferred two scales of pay, but had no objection to one scale. The Sastry Tribunal observed that though primarily its inclination was to provide a different and higher scale, it considered it simpler on the whole to solve the problem by providing for a lump sum allowance called 'special allowance' in each of such cases where it considered the same was called for except in the case of graduates and banking diploma holders for whom additional increments were provided. The Sastry Tribunal was at pains to point out that what it was providing was only a minimum, and that in the case of big banks and particularly in their important offices it may be proper and desirable that the incumbents of such offices should be allowed more than what had been prescribed. The Sastry Tribunal stated that it was not feasible to provide for diverse conditions obtaining in various branches of the banks where the volume of work differed to a considerable extent.

5.221. The Sastry Tribunal provided special allowances for the below mentioned categories of workmen employed in various classes of banks as under:—

<i>Categories of employees</i>	<i>Class of Banks</i>			
	A.	B.	C.	D.
	Rs.	Rs.	Rs.	Rs.
1. Comptists	10	10	10	10
2. Head Clerks and Stenographers .	20	20	15	10
3. Head Cashiers : Units of 5 clerks and above	20	15	10	8

<i>Categories of employees</i>	<i>Class of Banks.</i>			
	A.	B.	C.	D.
4. Head Cashiers : Units of 4 clerks and below	15	11	8	6
5. Assistant Cashiers (above the level of routine clerks) : Units of 5 clerks and above	16	14	9	7
6. Assistant Cashiers (above the level of routine clerks) : Units of 4 clerks and below	12	10	7	5
7. Cashiers in charge of cash in pay offices	15	15	12	10
8. Cashiers in charge of cash in treasury pay offices employees in charge of pay offices or sub offices	25	25	20	15
9. Supervisory, superintendents, sub-accountants, departmental in charges, employees in charge of treasury pay offices	50	45	40	35

The aforesaid provisions were not to govern head cashiers and sub accountants in the Imperial Bank of India. The Sastry Tribunal has made it clear that the aforesaid allowances were applicable to incumbents of such of these posts who were "workmen". It further provided that when an employee came within more than one category, he would be entitled to the highest rate applicable to him. For the purpose of these allowances the Sastry Tribunal made no distinction as between one Area and another. As regards graduates and holders of banking diplomas like C.A.I.B., and C.A.I.B., the Sastry Tribunal provided for them additional increments in the basic scales of pay, two increments being provided for graduation and one increment for completing Part I of the examination for the diploma, and another for completing Part II of the examination for the diploma, a person having both the qualifications being entitled to claim the benefit of both the sets of increments. The Sastry Tribunal considered that it was better to provide for such increments rather than give to the employees who had or who acquired such qualifications a special allowance. The Sastry Tribunal has observed that with regard to others, it did not think that any compulsory directions need be given and that it would be for the banks if they were so pleased to consider the matter.

5.222. As regards members of the subordinate staff the Sastry Tribunal provided for special allowances for the following categories of workmen employed in various classes of banks:—

<i>Categories of employees</i>	<i>Class of Banks.</i>			
	A.	B.	C.	D.
	Rs.	Rs.	Rs.	Rs.
Head cash mazdoors (coolies)	5	4	3	2—8—0
Watchmen, chowkidars or cash durwans	5	4	3	3
Armed guards	10	9	8	7
Daftries	10	9	8	7
Havaldars, jamadars, dafadars, nalks and head peons	15	12	10	8
Drivers and head messengers	30	25	20	18

The Sastry Tribunal has stated that the general observations made by it in the case of clerical staff would ordinarily apply to these persons also.

5.223. The Labour Appellate Tribunal did not disturb the scheme of the Sastry Tribunal in connection with special allowances. In the course of its

decision it has observed that the circumstances determining the extent of responsibility of a special post differ not merely from bank to bank and area to area, but also from branch to branch of the same bank and that it was convenient therefore to indicate a minimum and leave it to the bank to fix on a consideration of the circumstances of each case what the actual special allowance should be. The Labour Appellate Tribunal directed that "electricians" should receive a special allowance at the same rate as the one prescribed by the Sastri Tribunal for drivers. The Labour Appellate Tribunal recorded an agreement whereunder it was provided that "At each local Head office of the Imperial Bank of India (*viz.* at Calcutta, Bombay and Madras) there will be one member of the subordinate staff (*i.e.* Jamadar, Naik or Dafadar) who will rank as Head Messenger and will be entitled to the allowance of Rs. 30. ***No post in any of the Branches or sub offices will qualify for this Head Messengers allowance."

5.224. On behalf of the workmen a claim has been made for a special allowance for a very large number of categories of workmen. Between the All India Bank Employees Association and the All India Bank Employees Federation a demand has been made for special grades or special allowances for no less than 58 different categories of workmen in the clerical and supervisory grade and for special allowances for 25 different categories of workmen in the subordinate grade. There are some other categories also for whom demands have been made by other workmen's organisations. The demand is for the same amount of special allowance for the same category of workmen irrespective of the class of bank in which they may be employed. It is pleaded that the existing special allowances were not adequate.

5.225. The Indian Banks Association has pleaded for the continuation of the present special allowances and for payment of a special allowance of Rs. 15 per month to the accounting machine operators. Save as aforesaid it has opposed the demands made on behalf of workmen. It has claimed that "employees who are employed to do specified kinds of jobs for the whole time only would be eligible to special allowances."

5.226. The Bombay Exchange Banks' Association has submitted that designations were no criteria but the nature of duties would determine the category of workmen. It has stated that it was strongly felt that the introduction of special allowances had created an atmosphere of considerable mis-understanding, doubts and disputes and as such they called for a special review and that "the absence of any indication in the present award defining clearly the duties that should be performed by a workman for being eligible for the grant of the particular special allowance" had resulted in disputes being raised claiming special allowance for isolated duties such as using an adding machine, lifting a cash box, bundling vouchers, changing electric bulbs, etc. although each such operation may form only a very small portion of the day's work. It has pleaded that special allowance should only be paid to (1) stenographers (2) head clerks (3) head cashiers controlling 5 clerks and above (4) head cashiers controlling 4 clerks and above and (5) accounting machine operators as distinguished from the users of adding or calculating machines and from amongst the subordinate staff to (1) watchmen and chowkidars (2) armed guards and sentries (3) daftries (4) havaldars jamadars, dafadars and nalks (entrusted with responsibility for other members of the subordinate staff) (5) cash peons.

5.227. The State Bank of India has denied that there is or can be any category of workmen in the State Bank who could be classified either as highly skilled or even skilled. It has submitted that designations were illusive and deceptive and that Tribunals have always taken the view that only the duties and work involved mattered. It has opposed the demands of the workmen. Other banks have also opposed the demands of workmen.

5.228. It has been urged on behalf of the employees that the special allowances granted by the Sastri Tribunal are not based on any rational and scientific wage differentials looking to the nature of the work and responsibility of the position occupied by the workman concerned and that the same have been fixed on an *ad hoc* basis, without assigning any reason for such fixation. If special allowances are given based on wage differentials properly calculated after taking into account (1) the degree of skill, (2) the strain of work, (3) the experience involved, (4) the training required, (5) the responsibility undertaken, (6) the mental and physical requirements, (7) the disagreeableness of the task, (8) the hazard attendant on

the work and (9) the fatigue involved, they would be more scientific and more satisfactory. The criticism levelled against the Sastry scheme of allowances however is of a negative character. The workmen themselves have not adduced any evidence which would enable me to arrive at such wage differentials. The demands of the workmen for special allowances are also made on an *ad hoc* basis.

5.229 A complaint has been made on behalf of the workmen that the Sastry Award has not specified the nature of work to be done and the duties which are required to be performed by the various persons who are entitled to receive special allowances. It is further contended that some banks adopt different nomenclatures in order to avoid payment of these allowances. They have claimed that the nature of work of each category should be taken into account for the grant of special allowances, irrespective of the designation of the employee concerned.

5.230. In theory it would be desirable to have standardisation of nomenclature and standardisation of duties attached to a designated post. When I tried to explore the possibility of such standardisation, considerable difficulties were experienced. All efforts to evolve a standardised nomenclature and to have a standardisation of duties have failed. Enough evidence has not been led before me which would enable me to evolve such standardised nomenclature with standardised duties for different categories of workmen. Such standardisation would not even fall within the ambit of the terms of the reference to this Tribunal.

5.231. The Sastry Award has been in operation for a long time and as a result of decisions given by tribunals or otherwise the categories of persons entitled to special allowances under the Sastry Award as modified can now be regarded as fairly settled.

5.232. As held by the Supreme Court in *Lloyds Bank Limited vs. Pannalal Gupta* reported in 1961 (1) LLJ., page 18 "in deciding the status of an employee the designation of the employee is not decisive; what determines the status is a consideration of the nature and duties of the function assigned to the employee concerned."

5.233. The special allowances payable at present to workmen other than those belonging to the subordinate staff need to be enhanced to a certain extent in view of the changes made in the scheme of basic pay and dearness allowance under this award.

Graduates and Holders of National Diploma in Commerce

5.234. The All India Bank Employees Association has demanded for graduates and holders of National Diploma in Commerce a special allowance of Rs. 25 per month, while the All India Bank Employees Federation has demanded for graduates only two increments with a minimum of Rs. 35 per month. Most of the unions have followed the All India Bank Employees Association in making a demand in this respect. Some have followed the Federation. A Union has demanded only two increments while another has demanded a special allowance of Rs. 25 for 'graduates or equivalent diploma holders'. The All India Bank of Baroda Employees Federation by its supplementary statement has asked for a special allowance of Rs. 25 for each graduation and for the holding of the diploma. The State Bank of Patiala (All Cadres) Employees Association has pleaded for the grant of two increments to graduates. This Association has also pleaded for grant of three increments to double graduates and one increment to "intermediates".

5.235. The banks in general are opposed to the demands. The Bombay Exchange Banks Association is against the grant of special increments to graduates as it contends that in itself a University degree is of no value to the bank and it does not mean that a graduate can successfully apply this additional education for the benefit of the bank. The State Bank of India is against the grant of any allowance and in case any revision is made it has submitted that special increments should be discontinued and only a reasonable lump-sum payment should be directed to be paid on the acquisition of the qualifications and recognition thereof. The Bank of Baroda opposes the demand of the All India Bank of Baroda Employees Federation for payment of a special allowance of Rs. 25 for each graduation and for holders of a diploma. The Java Laxmi Bank has submitted that graduates should not be provided with additional increments. The Indian Banks Association at the time of the hearing has submitted that in case a special allowance was awarded to graduates or holders of National Diplomas in Commerce, the additional increments received by the employees under the provisions of the Sastry Award should be deducted from the existing basic pay for purposes of adjustment

into the new scales of basic pay, if any, and the special allowances prescribed by this Tribunal for such qualifications should then be paid in addition to the basic pay or new basic pay arrived at as above.

5.236. Under the Sastry Award, graduates are given two extra increments in the grade. There is no provision made for holders of the National Diploma in Commerce. The provision in the Sastry Award in terms of money operates differently for different persons depending upon the class of bank in which they are employed and depending upon the stage reached in the incremental scale. It is desirable that there should be a uniform provision made for persons who graduate or hold such diploma whether they have graduated or held such diploma before they joined service or at any subsequent stage. This uniformity can only be attained by providing a special allowance for them. I accordingly direct that a special allowance of Rs. 10 per month be paid by all classes of banks to graduates and to those who hold the National Diploma in Commerce. This provision will apply only to those who join a bank or who graduate or who obtain the National Diploma in Commerce on or after 1st January 1962. No adjustment as desired by some of the banks will be necessary in view of this direction. A person who is a graduate will not be entitled to receive any additional increment if he graduates over again.

C.A.I.B. and C.A.I.B. Diploma Examinations

5.237. As regards the Certified Associates of the Indian Institute of Bankers, and Certified Associates of the Institute of Bankers, the Sastry Tribunal has provided for one extra increment in the grade on passing Part I of the aforesaid examinations and another extra increment in the grade on passing Part II of the aforesaid examination. The All India Bank Employees Association has demanded a special allowance of Rs. 10 on passing the first part of the examination and a special allowance of Rs. 25 on passing both parts of the examination. The All India Bank Employees Federation has demanded for those who pass the first part of the aforesaid examinations one increment in the scale with a minimum of Rs. 10 and on passing the second part of the examination two increments in the scale with a minimum of Rs. 25 and also Rs. 10 extra for employees having both the diplomas. Other unions have made demands following the All India Bank Employees Association or the All India Bank Employees Federation. The All India Bank of Baroda Employees Federation has asked for cash awards of Rs. 150 and Rs. 250 to employees who pass Part I and Part II, respectively of these examinations. The State Bank of Patiala (All Cadres) Employees Association has asked for one increment for Part I and two increments for Part II in the scale. The All India State Bank of India Staff Federation and the State Bank of India Employees Association (Delhi Circle) have demanded one increment on completion of the first part and one increment on completion of the second part of the examinations.

5.238. The Banks in general are opposed to these demands. The Bombay Exchange Banks Association considers the C.A.I.B. and C.A.I.B. diplomas as valueless unless the employee can apply in practice the knowledge gained. It has stated that all banks would wish to encourage the employees to pass these banking examinations by making *ex gratia* payments not exceeding Rs. 100 on passing Part I and not exceeding Rs. 200 on passing Part II of these examinations. The State Bank of India has suggested lump sum payments for passing the examinations without specifying any amounts. The Northern India Banks' Association has expressed itself in favour of granting two increments for passing Part I of the Banking diploma examination and two increments for passing Part II of this examination. The Jaya Laxmi Bank is against providing additional increments to the banking diploma holders and considers it desirable to award a cash prize in lump sum when the employees complete Part I and Part II of the banking diploma examination.

5.239. At the hearing the Indian Banks Association has submitted that in case special allowances were awarded for passing Parts I and II of the Institute of Bankers Examination, the additional increments received by the holders of these diplomas under the provisions of the Sastry Award should be deducted from the "existing" basic pay for purposes of adjustment into the new scales of basic pay, if any and the special allowances prescribed by this Tribunal for such qualifications should then be paid in addition to the basic pay or new basic pay arrived at as above.

5.240. The reasons given for granting a special allowance to graduates also apply to those who have passed these examinations. I direct that a special allowance of Rs. 5 per month be paid by all classes of banks to persons who

pass the first part of the aforesaid examinations and a special allowance of Rs. 5 per month be paid by all classes of banks to persons who pass the second part of the aforesaid examinations. Those who have passed both the parts will thus receive special allowance of Rs. 10 per month. A person who has passed the first or the second part of the C.A.I.B. examination will not be entitled to receive any extra special allowance for passing the first or second part of the C.A.I.B. examination, and *vice versa*. These provisions will apply only to those who join a bank or who pass the first part or the second part of the aforesaid examinations on or after 1st of January 1962. In view of this provision no direction for adjustment as suggested by some of the banks will be necessary. A person who has already passed Part I of the aforesaid examination and has become entitled to receive one increment under the Sastry Award prior to 1st January 1962 will be fitted into the new scales of pay on the basis of his being entitled to such increment. For passing the second part of such examination after the 1st of January 1962 he will receive the special allowance of Rs. 5 as herein provided.

5.241. A graduate or a holder of the National Diploma in Commerce who passes the first or the second part of the aforesaid examinations will be entitled to receive a special allowance of Rs. 5 as herein provided in addition to the benefits received by him as a graduate or as a holder of the National Diploma in Commerce.

Comptists

5.242. The Sastry Tribunal has provided for comptists a uniform special allowance of Rs. 10 per month in all classes of banks. A uniform special allowance of Rs. 20 per month has been demanded by almost all workmens' organisations. Statements have been submitted before me showing difference between the total salary of clerks and that of comptists in some commercial concerns. In view of the pay scales being fixed with reference to the base year 1949 a revision in special allowances is also necessary. Having taken all circumstances into consideration, I provide a special allowance of Rs. 15 per month for comptists in all classes of banks.

Stenographers

5.243. Numerous representations have been made to this Tribunal on behalf of stenographers stating that their present allowance of Rs. 20 per month in A and B Class banks and Rs. 15 and Rs. 10 per month in C and D Class banks respectively is very low. The general demand of the employees is for a special allowance of Rs. 50 per month. There are, however, a few unions which have demanded less. The Cochin Commercial Bank Employees Association has claimed a special allowance of Rs. 20 per month, the Vadodra Rajya Bank Nokar Sangh has claimed a special allowance of Rs. 30 per month and the Bihar Provincial Central Bank of India Employees Association and the Central Bank of India Employees Associations at Patna, Muzaffarpur and Amritsar have claimed Rs. 35 per month as special allowance. The State Bank of Patiala (All Cadres) Employees Association has demanded that stenographers should be placed in supervisory grade II i.e. grade of Rs. 280-20-400-25-525-30-645. It has also demanded an allowance of Rs. 25 per month for stenographers. The All India Bank Employees Federation had first claimed a special allowance of Rs. 50 per month for stenographers but subsequently it amended the statement of claim and demanded a special grade of "Rs. 200-15-350-30-450-25-550" for stenographers when employed by banks having working funds of Rupees 15 crores and more and a special grade of Rs. 175-15-325-20-425-525 for those employed by banks having working funds below Rupees 15 crores. The demands made by the All India Bank Employees Federation as worked out by the Federation itself require payment by way of basic pay and dearness allowance to a stenographer at the all India working class consumer price index number 167 in the series of 1944=100 (same as index number 121 in the series 1949=100) by a bank in the first group of Rs. 350 per month in the first year of his service and Rs. 963 per month in the 21st year of his service and by a bank in the second group of Rs. 306 per month in the first year on his service and Rs. 918 per month in the 20th year of his service.

There are statements which indicate that there is a considerable difference between the total emoluments paid to a clerk and a stenographer in various commercial establishments. The State Bank of Saurashtra had the following scales for normal clerks and stenographers:—

Clerks: Rs. 65-4-85-5-100-6-112-7-140-8-164-9-200-10-250.

Stenographers: Rs. 100-10-160-15-205-EB-15-325.

The Bombay Exchange Banks Association has submitted that a special allowance of Rs. 20 per month should be prescribed for stenographers. On behalf of the State Bank of Patiala it has been pointed out that in view of the fact that stenographers are in the grade of Rs. 100-10-220-EB-10-250, no question could arise of paying to the stenographers any special allowance. The Northern India Banks Association which has as its members banks falling within the present C and D. Class has submitted that Rs. 25 per month should be fixed as special allowance for stenographers. At the time of the hearing, the Indian Banks Association submitted that in banks, dictation in shorthand is usually short, that the stenographers' duties are not exacting and that full time stenographers are rare in banks.

5.244. Having considered all aspects of the matter, I direct that stenographers should be paid a special allowance of Rs. 35 per month in A and B Class banks and Rs. 25 per month in C Class banks including banks in the Excepted List. This provision is not intended to fetter in any way the discretion of banks in giving a larger allowance to them having regard to the nature and extent of the work to be done by them and having regard to their proficiency and speed in stenography. I am conscious of the fact that the provisions herein made may not be adequate for stenographers possessing high degree of speed and accuracy in connection with their work. I have provided the minimum amounts that should be paid to persons who are employed to do the work of stenographers by different classes of banks with liberty to the banks to pay higher remuneration to stenographers according to their requirements and the ability and the speed to the stenographers. No case is made out for a separate scale of pay for stenographers and the demand in connection therewith is rejected.

Head Clerks, Chief Clerks and Passing Officers.

5.245. A supervisory grade has been demanded for this category of employees. Special allowances are also demanded for them. The demands for a special allowance for head clerks range from Rs. 50 to Rs. 75 per month. Only one organisation of workmen has demanded Rs. 20 for head clerks.

5.246. The special allowance at present for head clerks is Rs. 20 per month in A and B Class banks and Rs. 15 per month in C Class banks and Rs. 10 per month in D Class banks.

5.247. In some banks head clerks are known as 'chief clerks'.

5.248. The All India Bank Employees Association had made a demand for treating passing officers on equal footing with head clerks. The Indian Banks Association while pointing out that passing officers do the work of comparing and verifying signatures of customers on cheques with the specimen signatures on the bank's record has contended that no special skill or responsibility is involved in this work. The Bombay Exchange Banks Association has stated that passing officers who are employed in the National and Grindlays Bank are paid head clerk's special allowance of Rs. 20 per month. Having considered all aspects of the matter, I am providing special allowances for head clerks, chief clerks and passing officers of Rs. 27 per month in A Class banks, Rs. 27 per month in B Class banks and Rs. 20 per month in C Class banks including banks in the Excepted List. No case is made out for a separate scale of pay and the demand in connection therewith is rejected.

Head Cashiers.

5.249. For head cashiers, supervisory grades have been demanded. Under the Sastry Award "head cashiers: units of 5 clerks and above", get a special allowance of Rs. 20 per month in A Class banks, Rs. 15 per month in B Class banks, Rs. 10 per month in C Class banks and Rs. 8 per month in D Class banks and "head cashiers: units of 4 clerks and below", receive a special allowance of Rs. 15 per month in A Class banks, Rs. 11 per month in B Class banks, Rs. 8 per month in C Class banks and Rs. 6 per month in D Class banks. It is necessary to change the amounts in view of the changes in the scheme of basic pay and dearness allowance. I direct that "head cashiers: units of 5 clerks and above" should get special allowances of Rs. 27, Rs. 20 and Rs. 14 per month in A Class banks, B Class banks and C Class banks including banks in the Excepted List respectively and that "head cashiers: units of 4 clerks and below" should get special allowances of Rs. 20, Rs. 15 and Rs. 11 per month in A Class banks, B Class banks and C Class banks including banks in the Excepted List respectively. No case is made

out for a separate scale of pay for head cashiers and the demand in connection with the same is rejected.

Assistant Cashiers.

5.250. The All India Bank Employees Federation has demanded a special allowance of Rs. 25 per month for assistant cashiers. The position at present is that "assistant cashiers (above the level of routine clerks); units of 5 clerks and above", receive a special allowance of Rs. 16 per month in A Class banks, Rs. 14 per month in B Class banks, Rs. 9 per month in C Class banks and Rs. 7 per month in D Class banks and "assistant cashiers (above the level of routine clerks); units of 4 clerks and below", receive a special allowance of Rs. 12 per month in A Class banks, Rs. 10 per month in B Class banks, Rs. 7 per month in C Class banks and Rs. 5 per month in D Class banks. Special allowance at the uniform rate of Rs. 20 per month has been demanded for assistant cashiers by the All India Bank Employees Association.

5.251. Having regard to the changes in the scheme of basic pay and dearness allowance I am providing special allowances for "assistant cashiers (above the level of routine clerks); units of 5 clerks and above" of Rs. 22, Rs. 19 and Rs. 12 per month in A Class banks, B Class banks and C Class banks including banks in the Excepted List respectively, and for "assistant cashiers (above the level of routine clerks); units of 4 clerks and below" of Rs. 16, Rs. 14 and Rs. 10 per month in A Class banks, B Class banks and C Class banks including banks in the Excepted List respectively. No case has been made out for prescribing a uniform rate in all classes of banks in the present circumstances or for higher rates.

Deputy Head Cashiers and Assistant Head Cashiers.

5.252. For deputy head cashiers (above the level of routine clerks), a special allowance of Rs. 25 per month has been demanded only by the All India Bank Employees Federation and some unions which follow the Federation closely in making their demands.

5.253. No case has been made out for having a separate new category of this type for the grant of a special allowance. Similar is the case with assistant head cashiers (above the level of routine clerks) for whom the State Bank employees have made a demand for a special allowance of Rs. 50 per month and for whom others have demanded Rs. 20 to 25 per month by way of special allowance. Those who fall within the categories for which provision has already been made will get the special allowances which are provided. Those who do not fall within those categories will not be entitled to receive any special allowance.

Cashiers in Charge of Cash in Pay Offices.

5.254. The Sastry Tribunal has provided a special allowance of Rs. 15 per month in A and B Class banks and Rs. 12 per month and Rs. 10 per month in C and D Class banks respectively for cashiers-in-charge of cash in pay offices. The All India State Bank of India Staff Federation has demanded a special allowance of Rs. 50 per month for cashiers-in-charge of cash in pay offices or sub-offices. The same is the demand of the State Bank of India Staff Union, Andhra Pradesh. The State Bank of India Employees Association (Bengal Circle) has however demanded a special allowance of Rs. 60 per month for cashier-in-charge.

5.255. The State Bank of India has submitted that the present special allowance is quite adequate. No case has been made out and there is no necessity for enlarging the present category. In view of the change in the scheme of basic pay and dearness allowance I am providing Rs. 20, Rs. 20 and Rs. 16 per month for cashiers-in-charge of cash in pay offices in A Class banks, B Class banks and C Class banks including banks in the Excepted List respectively.

Cashiers-in-Charge of Cash in Treasury Pay Offices.

5.256. The present special allowance for this category of employees is Rs. 25 per month for A and B Class banks, Rs. 20 per month for C Class banks and Rs. 15 per month for D Class banks. The demand for this category is the same as the demand for cashiers in charge of cash in pay offices. The position taken up by the State Bank of India in this case also is the same as in the case of the cashiers-in-charge of cash in pay offices. I find that there are no treasury pay offices of any bank other than the State Bank of India. In view of the change in

the scheme of basic pay and dearness allowance I am providing under the circumstances a special allowance of Rs. 35 for cashiers-in-charge of cash in treasury pay offices of the State Bank of India.

Cashier-in-Charge and Receiving and Paying Cashiers.

5.257. The All India Bank Employees' Association has made no demand in respect of this category of employees. The State Bank of Patiala (All Cadres) Employees' Association has demanded a special allowance of Rs. 25 per month for cashiers-in-charge. The Bihar Provincial Central Bank of India Employees Association and the Central Bank of India Employees Association, Muzaffarpur, have demanded a special allowance of Rs. 25 for receiving and paying cashiers. The South Gujarat Bank of Baroda Employees Union has demanded a special allowance of Rs. 50 per month for receiving and paying cashiers. The Cochin Commercial Bank Employees Union has demanded a special allowance of Rs. 15 per month for paying cashiers and Rs. 10 per month for receiving cashiers.

5.258. No case has been made out for any separate special provision for these categories of workmen.

Employees in Charge of Pay Offices or Sub Offices and Employees in Charge of Treasury Pay Offices.

5.259. The Sastry Tribunal has dealt separately with employees in charge of pay offices or sub offices and employees in charge of treasury pay offices and has fixed a special allowance of Rs. 25 per month for A Class banks, Rs. 25 per month for B Class banks, Rs. 20 per month for C Class banks and Rs. 15 per month for D Class banks for employees in charge of pay offices or sub offices and a special allowance of Rs. 50 per month for A Class banks Rs. 45 per month for B Class banks, Rs. 40 per month for C Class banks and Rs. 35 per month for D Class banks for employees in charge of treasury pay offices. The All India State Bank of India Staff Federation has demanded a special allowance of Rs. 100 per month for employees in charge of pay offices and sub pay offices. For employees in charge of treasury pay offices a special allowance of Rs. 100 per month was demanded at the hearing. According to the State Bank of India, the clerks in charge are not workmen as they are employed in a managerial capacity. There is no legal evidence before me on which I can adjudicate and determine whether they are workmen or not. Provision has been made for them by the Sastry Tribunal on the footing that they are workmen. I am making a provision for them on a similar hypothesis. If they or any of them are found not to be workmen these provisions will not apply to such of them as are not workmen.

5.260. As regards employees in charge of pay offices or sub-offices, they may be divided into two categories: (1) those in charge of pay offices or sub-offices of banks other than the State Bank of India and (2) those in charge of pay offices or sub-offices of the State Bank of India. As regards the former, I am providing special allowances of Rs. 35, Rs. 35 and Rs. 27 per month for A Class banks, B Class banks and C Class banks including banks in the Excepted List respectively in view of the changes in the scheme of basic pay and dearness allowance. As regards the employees in charge of pay offices or sub-offices of the State Bank of India, their responsibilities are very much greater and they have to attend to diverse types of work. In view thereof, I fix for them a special allowance of Rs. 65 per month. As regards the employees in charge of the treasury pay office, I find that at present there are no treasury pay offices of any banks other than the State Bank of India. As regards employees in charge of the treasury pay offices of the State Bank of India, in view of the special nature of their duties and responsibilities, I am fixing a special allowance of Rs. 100 per month.

Typists

5.261. A claim has been made on behalf of typists that they should be paid a special allowance of Rs. 20 per month. Two unions have, however, demanded a special allowance of Rs. 10 per month. Typists were paid an allowance of Rs. 5 per month in the Bengal and Delhi Circles of the State Bank of India upto 1st December 1957, but the typists employed after that date are not being paid any special allowance by the State Bank of India. Under the Sastry Award as modified no special allowance is provided for typists. The Sastry Tribunal has taken the view that typists form part of the regular clerical grade. The

question of granting special allowance to typists was again considered by the Labour Appellate Tribunal on the representation of the employees. The Labour Appellate Tribunal held that the case of clerks who were typists did not call for special consideration. The work of the typists was regarded by the Labour Appellate Tribunal as of a routine character and the responsibility attaching to such work was not considered to be as great as the responsibility attaching to the higher grades or work expected of a routine clerk in the general scale. The scales of pay which I have fixed for the clerical grade are adequate for typists. In A Class banks in Area I at the all India index number of 123 (1949=100) a typist in the beginning of his service will receive a sum of Rs. 164 and a typist who is in the 25th year of service will receive about Rs. 473. There is no case made out for any special allowance for typists.

Accounting Machine operators, etc.

5.262. Special allowances have been demanded for "accounting machine operators", "I.B.M. machine operators", "Remington Rand accounting machine operators", "Hollerith machine operators" and "punch operators". For accounting machine operators, a special allowance of Rs. 50 per month has been demanded by the All India Bank Employees Association. For I.B.M. Machine operators, Remington Rand Accounting machine operators and punch operators a special allowance of Rs. 20 per month has been demanded by the All India Bank Employees Federation. The Indian Banks Association is willing to allow to accounting machine operators, I.B.M. machine operators, Remington Rand accounting machine operators and punch operators a special allowance of Rs. 15 per month. The State Bank of India has submitted that its punch operators are working under a special arrangement and that in view thereof no special allowance should be fixed for them.

5.263. Instances have been cited before me to show that the allowances which are being paid at present to accounting machine operators in various banks vary between Rs. 10 per month to Rs. 25 per month. It has also been pointed that the British Bank of Middle East pays a special allowance of Rs. 50 per month to these operators. The allowance which is paid to the punch operators in the Associated Cement Company is Rs. 30 per month. Taking everything into consideration I am providing that all classes of banks should give a special allowance of Rs. 20 per month to the accounting machine operators, I.B.M. Machine operators, Remington Rand accounting machine operators, Hollerith Machine operators and punch operators. The punch operators employed by the State Bank of India will, however, be excluded from these directions in view of the special conditions under which they are being employed at present. ..

5.264. The State Bank of India has stated that Remington accounting machines are used in its Central Accounts Office, Calcutta and in Central Accounts Sections at Local Head Offices and that the employees who qualify themselves as machine operators (which qualification is acquired by undergoing a practical course of a few days) are granted one increment in their grade pay. The State Bank of India has urged that double benefit of such increment and of a special allowance should not be granted to them. I provide that from and after the date when the special allowance hereby provided becomes payable, the State Bank of India will be entitled to set off the amount of such increment against the amount of the special allowance payable hereunder to such operators in the State Bank of India.

Adding Machine Operators, Addressographers and Photostat Machine operators.

5.265. Claims have been made for a special allowance of Rs. 20 per month for adding machine operators and addressographers and from Rs. 20 per month to Rs. 50 per month for photostat machine operators. The comparative effort required to learn to operate these machines efficiently is much less than that required by persons who operate efficiently on a typewriter. There is no cogent reason for granting an extra allowance to these persons when no extra allowance has been provided for typists. It has been brought to my notice that in some banks a special allowance of about Rs. 10 per month is being paid to the above mentioned operators. In my view no case has been made out for the grant of any special allowance to these operators. The clerical grade provided for these operators is adequate. Banks are however at liberty to pay any special allowance if they so choose.

Munshis, opinion Compilers, Credit investigators and Translators

5.266. A claim has been made that a special allowance should be given to the members of the clerical staff who are working as munshis, opinion compilers (or opinion clerks) credit investigators and translators and special allowances ranging from Rs. 20 per month to Rs. 75 per month have been demanded. No case has been made out for giving any special allowance to any of them. The clerical grade provided for them is adequate.

Clearing Clerks, court clerks, record keeper clerks, proof readers, stationery stock keepers and ledger keepers.

5.267. A claim has also been made for a special allowance for the above categories of workmen. No case is made out for giving any special allowance to them, and the demand is rejected.

Godown keepers.

5.268. There is a demand by some unions for the grant of a special allowance to godown-keepers which ranges from Rs. 10 per month to Rs. 20 per month. Actually there is a claim under another item of reference by the State Bank of India that the pay of the godown keepers in charge of the borrowers' godowns should be only slightly above the pay of the members of the subordinate staff. No case has been made for the grant of a special allowance to godown keepers and the claim is rejected.

Godown Inspectors

5.269. Godown Inspectors receive no special allowance at present. The All India Bank Employees Federation has demanded a supervisory grade for them. Some unions have demanded a special allowance of Rs. 30 for this category of employees. The duties given by the Indian Banks Association of godown inspectors indicate that they inspect godowns containing goods pledged or hypothecated to a bank and ascertain whether the value, quantity and quality of goods stored were in accordance with the books of accounts. There is a higher degree of responsibility attached to the duties of godown inspectors than to the duties of godown keepers. The inspectors of godowns should be better paid than ordinary godown keepers. I provide a special allowance of Rs. 10 per month for godown inspectors in all classes of banks. No case has been made out for a separate scale of pay for godown inspectors.

Accountant holding charge of cash and strong rooms, Caretakers, caterers, and Telephone operators.

5.270. No case is made out for any special allowance for any of these categories of workmen and the demand is rejected.

Tellers.

5.271. The employees in general have demanded a supervisory grade for tellers. The State Bank of India Employees Association (Bengal Circle) and the State Bank of India Employees Association (Delhi Circle) have demanded a special allowance of Rs. 50 per month for them. The All India Bank Employees Federation has demanded a special allowance of Rs. 50 for tellers handling cash. The State Bank of Patiala (All Cadres) Employees Association has demanded a special allowance of Rs. 10 for tellers. This nomenclature is not prevalent in Exchange Banks. The Indian Banks Association has pointed out that tellers for whom a supervisory grade had been demanded by the employees and the tellers handling cash for whom a special allowance of Rs. 50 per month had been demanded, have duties "of passing and payment of cheques upto a specified limit". The case of Shri M. R. Sood, a teller in the Kanpur branch of the Punjab National Bank came up for consideration before the Supreme Court in Civil Appeal No. 476 of 1960. In its judgment, dated 20th July 1961 reported in 1961 (II) Labour Law Journal at page 162 the Supreme Court after examining the duties assigned to this teller, observed that "It is true that he (Shri Sood) does important and responsible work in that he can pass cheques upto Rs. 1,000 but the fact that the work done by the teller is responsible and onerous is not material in determining the question as to whether his work is supervisory in character or not". The claim of Shri Sood for a special allowance as a supervisor under paragraph 164 of the Sastry Award was disallowed. In view of the special responsibility of tellers I am providing a special allowance of Rs. 10 per month for tellers in all classes of banks. No case is made out for a separate scale of pay for them.

Audit Clerks

5.272. For audit clerks sometimes called auditors, or checkers, a supervisory grade has been demanded. There is also a demand for a special allowance of Rs. 50 made by some unions. The Supreme Court had occasion to consider the case of persons employed in the audit department of the New Delhi branch of the Lloyds Bank in connection with a claim made for payment of supervisory allowance. In its judgment dated 18th November 1960 in Civil Appeal No. 415 of 1959, published in 1961 (I), Labour Law Journal, page 18 the Supreme Court at pages 22 and 23 has observed as follows:—

“***, before a clerk can claim a special allowance his work must appear to have some element of supervisory character. The work that is done by the clerks in the audit department substantially consists of checking up books of accounts and entries made in them. This checking up is primarily a process of accounting, and the use of the word ‘checking’ cannot be permitted to introduce a consideration of supervisory nature. The work of checking the authority of the person passing the voucher or to enquire whether the limit of authority has been exceeded is also no doubt work of a checking type but the checking is purely mechanical, and it cannot be said to include any supervisory function. If we take into account the six classes of clerks specified in Clause 9, it would suggest that in respect of each one of them there would normally be some persons working under the persons falling in that clause; in other words, a person claiming the status of a supervisor in Clause 9, should normally have to supervise the work of some others who are in a sense below him. On the argument urged by Mr. Ramamurthi every clerk working in the audit department would be a supervisor and as such would be entitled to draw a monthly special allowance of Rs. 50 though in the general hierarchy of the banks’ employees he may be much below the head clerks or head cashiers who draw Rs. 20 as monthly allowance. The tribunal has characterised the work of these clerks as internal auditors but that obviously is an overstatement. Audit in the sense in which the work “internal audit” is understood is very different from the work of checking which is entrusted to the clerks in the audit department. Similarly, when the tribunal has observed that the clerks in the audit department supervise the work of almost all the persons in that establishment that again is obviously an overstatement. It would be legitimate to say that the work done in the audit department is important for the proper and efficient functioning of the bank, but it would be idle to elevate that work to the status of officers who supervise the work of everybody concerned with the bank’s establishment. In our opinion, therefore, the conclusion drawn by the tribunal as regards the status of the three workmen by reference to the ninth category specified in para. 164 (b) of the award is manifestly erroneous and cannot be sustained.”

Having regard to the nature of the duties of audit clerks, after considering all aspects of the matter I am providing a special allowance of Rs. 10 per month for audit clerks in all classes of banks. No case has been made out for a separate scale of pay for them.

Supervisors, Superintendents, Sub-Accountants and Departmental-in-Charges

5.273. On behalf of the workmen a special scale of pay has been demanded for these categories of workmen. I have dealt with the case of supervisors in an earlier part of this chapter. The same reasoning generally applies to superintendents, sub-accountants and departmental-in-charges. Some of the persons who are supervisors, superintendents, sub-accountants or departmental-in-charges may not be workmen. It is not possible in the present state of the record to provide a special scale or scales of pay for such of them who are workmen. The Sastry Tribunal has provided Rs. 50, Rs. 45, Rs. 40 and Rs. 35 by way of special allowances for these categories of workmen in A Class banks, B Class banks, C Class banks and D Class banks respectively. In view of the changes in the scheme of basic pay and dearness allowance it is necessary to make a change in the special allowances provided for these categories of workmen. I provide special allowances of Rs. 65, Rs. 60 and Rs. 55 for these categories of workmen in A Class banks, B Class banks and C Class banks including banks in the Excepted List respectively.

Cashier—Clerks

5.274. This category of employees is connected with the Bank of Baroda Ltd. By a supplementary statement of claim, the All India Bank of Baroda Employees Federation has submitted that in several branches of the Bank of Baroda Ltd., cashier-clerks, who are in charge of the cash departments of the bank's branches are given supervisory duties, that they counter-sign demand drafts, mail transfers and also check certain registers apart from exercising all supervisory powers in respect of the cash department employees working under them, and that as a result of the Federation's demand made in 1958, without prejudice to their legal contentions, the Bank and the Federation reached an agreement whereunder these employees receive an allowance of Rs. 50 in branches where there were no accountants, and Rs. 30 in branches where there were accountants. It is the submission of the Federation that without prejudice to its demand in respect of the emoluments payable to employees working in the supervisory cadre, such employees should continue to get the benefit of the agreement and that directions to that effect should be given. The Bank of Baroda Ltd. denies that these employees do any supervisory work as, according to the bank, the work of signing demand drafts, telegraphic transfers, mail transfers, etc. "as second man" given to some cashiers at small branches is not supervisory work. It has relied upon the agreement reached with the Federation on 29th October 1960 by which, according to the bank as a measure of interim arrangement, pending the final decision of this Tribunal, the bank has allowed the special allowance mentioned above to cashier-clerks under certain conditions laid down in the agreement. The bank submits that this Tribunal should hold that the contention of the bank that the work of these employees in not of a supervisory nature is correct and should dismiss and demand of the Federation. At the hearing a uniform allowance of Rs. 50 was demanded for this category of workmen.

5.275. Under this award I have provided a special allowance of Rs. 65 per month for supervisors. If the cashier-clerks perform the duties of supervisors they will be entitled to receive this allowance. No evidence has been led before me from which I can determine whether cashier-clerks in fact perform supervisory functions or not. It is admitted by both the sides that cashier-clerks sign demand drafts and telegraphic transfers and other documents. In case of those cashier-clerks who are not entitled to a supervisory allowance, I fix a special allowance of Rs. 40 per month having regard to the admitted duties performed by them and having regard to the scheme of basic pay and dearness allowance under this award.

Group-in-Charge

5.276. There is a demand by the All India State Bank of India Staff Federation that a group-in-charge should be paid a special allowance of Rs. 50 per month as against Rs. 20 per month which is being paid at present by the State Bank of India. This category of employees are employed by the State Bank of India in the Central Accounts Office, Calcutta, Government Accounts Section, Nagpur, and the Central Accounts Sections at four Head Offices. The State Bank of India has replied that the group-in-charge, have to group the statements of entries posted for inter-branch transactions in packets to facilitate balancing that these packets are distributed to clerks for balancing, that over a group of about seven clerks a senior clerk is posted to perform checking duties under the overall supervision of a sub-accountant and that as the duties performed by the group-in-charge are more or less similar to those of a head clerk, an allowance of Rs. 20 per month is being paid to the group-in-charge. It appears that this category did not exist at the time of the Sastry Award. Having regard to the duties performed by them and the scheme of basic pay and dearness allowance I provide for a special allowance of Rs. 27 for this category of workmen.

Agency Clerks

5.277. By a supplementary statement, the Vadodra Rajwa Bank Nokar Sangh has demanded a special allowance of Rs. 20 per month for clerks working in the Agency Department of the Bank of Baroda Ltd. on account of the special nature of their work and the responsibilities undertaken by them. It is alleged that amongst other duties performed by them, they "check ledgers, supervise the work of the branches, ask explanations from the branches in case of mistakes etc.". It is alleged that this is a department of the bank through which the working of the branches is controlled by the head office of the bank. The Bank of Baroda, by a supplementary statement, has denied that the work in this department is of any special nature and/or that it entails any special responsibility on the staff working

in that department, or that there is supervision of any kind done by these clerks and that the claim is untenable.

5.278. No evidence has been led before me which would enable me to judge between the rival contentions of the parties. The workmen have failed to make out a case for the grant of a special allowance for this category of workmen and the demand must fail and is rejected.

Clerks concerned with Government securities, etc.

5.279. By a supplementary statement, the All India Bank of Baroda Employees Federation has made a demand that clerks entrusted with the work of carrying Government securities and shares for delivery, transfer and/or any other purpose should be paid a special allowance of Rs. 25 per month as the Federation contends that their duties involve more than ordinary responsibility. The Bank of Baroda Ltd., has submitted that this work does not involve any extraordinary responsibility as the responsibility in carrying shares, securities, etc., is normal and is a condition of service. No case is made out for the grant of any special allowance to this category of workmen and the demand is rejected.

Sub Agents and Assistant Managers

5.280. The Bihar Provincial Central Bank of India Employees Association and the Central Bank of India Employees Association at Patna, Muzaffarpur and Amritsar, have demanded a special allowance of Rs. 50 per month for sub agents and assistant managers. For this category of employees that All India Bank Employees Association and the All India Bank Employees Federation, have demanded a supervisory grade.

5.281. No case has been made out for providing a separate special allowance for these categories of employees some of whom may not even be workmen. Such of them who are workmen and who perform supervisory duties will be entitled to the special allowance provided for supervisors.

5.282. In view of the directions given the categories of workmen and the amount of special allowances per month which such categories of workmen will get in A B and C Class banks, are given below:—

<i>Categories of workmen</i>	<i>Class of banks</i>		
	A Rs.	B Rs.	C Rs.
1. Graduates or holders of National Diploma in Commerce	10	10	10
2. Workmen who have passed Part I of C.A.I.B. or C.A.I.B. Examination	5	5	5
3. Workmen who have passed Part II of C.A.I.B. or C.A.I.B. Examination	5	5	5
4. Computists	15	15	15
5. Stenographers	35	35	35
6. Head clerks, chief clerks and passing officers	27	27	20
7. Head Cashiers, units of 5 clerks and above	27	20	14
8. Head Cashiers ; units of 4 clerks and below	20	15	14
9. Assistant cashiers (above the level of routine clerks) ; Units of 5 clerks and above	22	19	13
10. Assistant Cashiers (above the level of routine clerks) ; units of 4 clerks and below	16	14	10
11. Cashiers-in-charge of cash in pay offices	20	20	16

Categories of employees	Class of Banks		
	A	B	C
	Rs.	Rs.	Rs.
12. Cashiers-in-charge of cash in treasury pay offices of the State Bank of India	35	..	..
13. Employees-in-charge of pay—			
(a) Offices of banks other than the State Bank of India	35	35	27
(b) Employees-in-charge of pay offices and sub-offices of the State Bank of India	65	..	..
14. Employees-in-charge of treasury pay offices of the State Bank of India	100	..	..
15. Accounting Machine operators, I.B.M. machine operators, Remington Rand Accounting Machine operators, Hollerith Machine operators and Punch operators. Punch operators of the State Bank of India are excluded from the operation of this provision	20	20	20
16. Godown Inspectors	10	10	10
17. Tellers and audit clerks	10	10	10
18. Supervisors, superintendents, sub-accountants, departmental-in-charges	65	60	55
19. Cashier-clerks in Bank of Baroda, Ltd.	40	..	..
20. Group in charge in State Bank of India	27	..	..

5.283. Head Cashiers and sub-accountants of the State Bank of India are excluded from the operation of the above provisions.

5.284. Special allowances prescribed for C Class banks will also be payable by the banks in the Excepted List.

5.285. Special allowances prescribed above would be in supersession of those prescribed under the Sastry Award as modified.

5.286. Special allowances are payable to employees who are workmen and who would continue to remain as workmen even after the inclusion of the amounts of such special allowances in their wages.

5.287. When an employee falls within more than one category, he would be entitled to receive the special allowance at the highest rate applicable to him.

5.288. It has been urged on behalf of the banks that these special allowances should be paid to the employees only when they are required to perform and when they in fact perform the special duties for the performance whereof these allowances are prescribed and that the special allowances should cease to be payable when the employees cease to perform the special duties for any reason. It is further urged that special allowances are payable when a person is employed whole-time to do specified jobs attracting such allowances. It is also urged that such allowance should not become payable when a person is casually or occasionally asked to do some duty of the type attracting a special allowance. The special allowances which have been awarded are monthly special allowances. They are intended to compensate a workman for the performance of certain duties and the discharge of certain functions which constitute the normal part of the duties performed and the functions discharged by such person. They are not intended to be paid for casual or occasional performance of such duties or the casual or occasional discharge of such functions. It is however not necessary that the person should continue to perform such duties or discharge such functions whole-time. For instance a person who is doing supervisory work need not do the work of supervision all the time in order to be entitled to an allowance.

5.289. A person is entitled to a special allowance so long as he is in charge of such work or the performance of such duties which attract such allowance. Whether a person can be asked to cease to do such work or cease to discharge such duties in order that he may not have such allowance depends upon the terms of his employment. A person who is employed permanently as a head clerk or as a stenographer cannot be deprived of such allowance, at the sweet-will and pleasure of a bank by asking him to work as an ordinary clerk or asking him not to work as a stenographer. A person asked to work temporarily in a post carrying a special allowance would be entitled to such a special allowance for such period during which he occupies that post.

5.290. Special allowances would continue to be drawn by a permanent incumbent while on leave.

5.291. Whenever a bank requires an employee to work in a post carrying a special allowance it should be done by an order in writing to avoid any future controversy.

5.292. The special allowances hereby provided are by way of minimum. It is open to any bank to provide higher special allowances. It is also open to a bank to provide a special scale of pay for any category of workmen in lieu of the scale of pay and special allowance provided by this award provided the total remuneration consisting of basic pay under such scale and dearness allowance is not less than what is provided by way of basic pay, special allowance and dearness allowance under this award.

5.293. It is not my intention that banks which are at present paying special allowances to workmen other than those for whom I have provided special allowances should cease to pay such special allowances. They are free to continue to pay the same.

The aforesaid general observations will equally apply to members of the subordinate staff whose case is considered later.

5.294. No further directions seem to me to be necessary.

Special Allowances for Subordinate Staff

5.295. At present the dearness allowance for the subordinate staff is fixed at a flat rate irrespective of the quantum of the basic salary or of the special allowance. Having regard to the existing scheme of dearness allowance applicable to the members of the subordinate staff, no extra amount by way of dearness allowance becomes payable to any person by reason of any special allowance provided for him. Under this award, having regard to the altered scheme of dearness allowance, members of the subordinate staff will be entitled to receive dearness allowance having regard to their basic pay, special allowance, if any, and officiating allowance, if any, payable to them with the result that even if the present special allowances are retained, members of the subordinate staff will receive a larger benefit than before.

Head Cash Mazdoors

5.296. At present the head cash mazdoors are receiving a special allowance of Rs. 5 per month in A Class banks, Rs. 4 per month in B Class banks, Rs. 3 per month in C Class banks and Rs. 2-8-0 per month in D Class banks. A demand is made for a special allowance of Rs. 10 for members of the subordinate staff who handle cash and are designated in banks as cash peons, cash mazdoors, cash coolies and head cash mazdoors in all classes of banks. According to some of the banks, cash peons working in the cash department, performing ordinary duties of members of the subordinate staff and no skill or responsibility is involved in their work. The Bombay Exchange Banks Association has stated that the cash peons, cash durwans accompany banks' cashiers when cash is taken to or brought from the Reserve Bank or State Bank, Treasury, etc., that they take money orders, insured letters, etc., to the post office, buy stamps, and may collect cheques, payments etc. all within specified limits, that they may also be required to deliver or collect valuable securities upto certain limits and that for the performance of these duties the Bombay Exchange Bank suggested a special allowance of Rs. 5 and not for other peons working in cash departments in banks who are merely employed to carry books, vouchers, etc., to sew note bundles and carry cash boxes, etc., in the office.

The Sastry Award provides special allowance for head cash mazdoors and also for cash durwans. In my view no case is made out for giving any special allowance to any new category of workmen under the designation of cash peons, cash coolies or cash mazdoors. Having considered all aspects of the matter I direct that the head cash mazdoors will be entitled to receive a special allowance of Rs. 5 per month in A Class banks, Rs. 4 per month in B Class banks and Rs. 3 per month in C Class banks including banks in the Excepted List. No case is made out for awarding any higher amounts.

Watchmen, Chowkidars and Cash Durwans

5.297. A special allowance of Rs. 5 per month in A Class banks, Rs. 4 per month in B Class banks, and Rs. 3 per month in C and D Class banks is now payable to watchmen, chowkidars or cash durwans under the Sastry Award. A demand has been made before me on behalf of these categories of workmen and other employees alleged to be doing the same kind of work but carrying different designations, such as godown chowkidars, godown durwans, godown guards, durwans, guards, sentries and night watchmen, for special allowances of Rs. 10 to Rs. 15 per month. All employees who perform the duties of watchmen, showkidars or cash durwans will receive the special allowance fixed for watchmen, chowkidars or cash durwans. I am not providing for any new category of workmen.

5.298. There is also a demand by the All India Bank Employees Federation for an allowance of Rs. 10 for warders and Rs. 25 for head or chief warders. It is stated that this category of employees is employed by the Punjab National Bank's head office and it is alleged that they work as watchmen. I fix no special allowance separately for these categories of employees. If their duties are the same as those of watchmen, they would be entitled to the allowance permissible in the case of watchmen.

5.299. By a supplementary statement the All India Bank of Baroda Employees Federation submitted that the watchmen called 'Ramoshis' in the Bank of Baroda are not being given the benefit of all service conditions applicable to the staff doing similar work. It has demanded that there should be no difference between the service conditions of 'Ramoshi' watchmen and other watchmen and that the Ramoshis should be compensated for the loss of benefits denied to them in the past. The Vadodra Rajya Bank Nokar Sangh, by a supplementary statement, has stated that the Ramoshi watchmen employed by the Bank of Baroda at its various branches were being employed at Rs. 60 per month and were not given the benefit of the provisions of the Sastry Award on the plea that they were not the employees of the bank. It is submitted that Ramoshis were full time permanent employees of the bank, and that they should be entitled to the benefit of the award.

5.300. The Bank of Baroda in reply had alleged that the police Ramoshis were not workmen of the bank and were not covered by the Sastry Award or by this Reference. On 10th October 1961 the parties have come to a settlement in connection with this demand and filed it before me with a request to give an award in terms thereof. I have recorded the settlement arrived at between the Bank of Baroda on the one side and the All India Bank of Baroda Employees Federation and the Vadodra Rajya Bank Nokar Sangh on the other and made an award in terms thereof on 25th December 1961 which has been published in the *Gazette of India*, Part II, Section 3(ii), dated 20th January 1962 at page 271. In view of this settlement, no further directions are necessary.

5.301. Having considered all aspects of the matter I direct that watchmen, chowkidars and cash durwans will be entitled to receive a special allowance of Rs. 5 per month in A Class banks, Rs. 4 per month in B Class banks and Rs. 3 per month in C Class banks including banks in the Excepted List under this award. No case is made out for giving any higher amounts.

Armed Guards

5.302. Another category for which the Sastry Tribunal has provided special allowance is that of armed guards. A special allowance of Rs. 10 per month in A Class banks, Rs. 9 per month in B Class banks, Rs. 8 per month in C Class banks and Rs. 7 per month in D Class banks has been provided for armed guards. Demands have been made that armed guards should be paid a special allowance the amount whereof ranges between Rs. 15 and Rs. 20 per month. The All India State Bank of India Staff Federation has demanded for Havaldars and Armed

guards a special allowance of Rs. 30 per month. Persons who perform the duties of armed guards will be entitled to receive the special allowance provided for armed guards whatever their designation. Having considered all aspects of the matter I direct that armed guards will be entitled to receive special allowance of Rs. 10 per month in A Class banks, Rs. 9 per month in B Class banks and Rs. 8 per month in C Class banks, including banks in the Excepted List. No case has been made for awarding a higher allowance.

Retainers

5303. A special allowance of Rs. 15 has been demanded for retainers. These are persons whose names are entered as nominees of the bank in the gun licence taken out by the bank, so as to authorise them to carry the gun. As the retainers normally do not carry arms, no special allowance for retainers as such is provided. The retainers will however be entitled to receive the special allowance fixed for armed guards under this award when they are required to carry with them the arms supplied by the banks and perform the duties of armed guards.

Daftries

5304. According to the Sastry Award as modified, a special allowance of Rs. 10/- per month in A Class banks, Rs. 9/- per month in B Class banks, Rs. 8/- per month in C Class banks and Rs. 7/- per month in D Class banks is payable to daftries. The demand generally made is that this allowance should be increased to Rs. 20/- per month. One union has demanded Rs. 15/- per month. Some unions have demanded Rs. 25/- per month. There is one union which has even demanded a special allowance of Rs. 35/- per month. The All India Bank Employees Association and some unions have demanded that daftries performing the job of record keepers, should be classed as clerks. The All India Bank Employees Federation and some unions have demanded that daftries doing clerical duties should be placed in the clerical grade. The nature of the duties of daftries has not changed since the date of the Sastry Award.

After considering the whole matter I direct that daftries who are members of the subordinate staff will be entitled to receive by way of special allowance Rs. 10/- per month in A Class banks, Rs. 9/- per month in B Class bank and Rs. 8/- per month in C Class banks including banks in the Excepted List. No case has been made out for granting higher allowances.

Havaldars, Jamadars, Dafadars, Naiks and Head Peons

5305. A special allowance of Rs. 15/- per month in A Class banks, Rs. 12/- per month in B Class banks, Rs. 10/- per month in C Class banks and Rs. 8/- per month in D Class banks is payable to havaldars, jamadars, dafadars naiks and head peons, under the existing award. The demands now for special allowances for these categories of employees range between the minimum and the maximum mentioned below:—

	Minimum per month.	Maximum per month.
	Rs.	Rs.
Havaldars	20	35
Jamadars	15	40
Dafadars	20	25
Naiks	20	25
Head Peons	10	25

The Vadodra Raja Bank Nokar Sangh has demanded Rs. 15/- per month for Jamadars working at branches and Rs. 20/- per month for Jamadars working at the head office and other main offices of the banks. The All India Bank of Baroda Employees Federation by a supplementary statement has demanded a special allowance of Rs. 20/- per month for 'havaldars' who attend on (1) deputy managers of the Bank of Baroda office in Fort, Bombay, (2) managers and accountants of the branches which are called "Managers' offices" and (3) branch

agents. The Bank of Baroda has opposed the grant of this allowance as it contends that by attending on the officers mentioned by the Federation, the work of a peon does not become more responsible as he still does the work of a peon.

5.306. No special reason has been given for a revision of the special allowances fixed for these categories of employees. Having considered the matter I direct that havalgars, jamadars, dafadars, naiks and head peons will be entitled to receive by way of special allowance Rs. 15/- per month in A Class banks, Rs. 12/- per month in B Class banks and Rs. 10/- per month in C Class banks including banks in the Excepted List.

Drivers

5.307. The Sastry Tribunal has fixed a special allowance of Rs. 30/- per month in A Class banks, Rs. 25/- per month in B Class banks, Rs. 20/- per month in C Class banks and Rs. 18/- per month in D Class banks for drivers. Demands have been made for the grant of a special allowance to drivers which vary from Rs. 20/- to Rs. 50/- per month. The All India Bank Employees Federation had, in the first instance, demanded a special allowance of Rs. 35/- for drivers, but in the course of the hearing the Federation amended its demand and made a claim for a special pay scale of "Rs. 110-5-135-6-165-8-265" for drivers in banks in the Federations 'group A' banks, and a special pay scale of Rs. 105-5-180-7-230 for drivers in banks in its 'group B' banks. The All India State Bank of India Employees Federation has also demanded a special scale of Rs. 175-5-205-6-235-7-242-8-282-9-300 for drivers in the State Bank of India. The banks in general are opposed to any special grade or grades or any increase in the existing allowance for drivers. The Northern India Banks' Association has however submitted that drivers should be paid a special allowance of Rs. 25/- per month. The remuneration payable to drivers generally depends upon the ability, skill and efficiency of the drivers. What has been prescribed by the Sastry Tribunal is the minimum special allowance payable to any driver employed by a bank in addition to what he is entitled to get as a member of the subordinate staff, banks being at liberty to pay a higher special allowance, if they so desire. Having considered this matter I direct that drivers will be entitled to receive by way of special allowance Rs. 30 per month in A Class banks, Rs. 25/- per month in B Class banks and Rs. 20/- per month in C Class banks including banks in the Excepted List. No case has been made out for the grant of higher special allowances to them or for separate grade or grades for them.

Head Messengers

5.308. The Sastry Tribunal has fixed for head messengers a special allowance of Rs. 30/- per month in A Class banks, Rs. 25/- per month in B Class banks, Rs. 20/- per month in C Class banks and Rs. 18/- per month in D Class banks. Head messengers are employed by the State Bank and few other banks. There is now a demand for revision of this special allowance by raising it to Rs. 40/- by the State Bank of India Employees Association, Bengal Circle. All other workmen's organisations have demanded a special allowance of Rs. 35/- per month. The special allowances for head messengers are the same as those for drivers and electricians in banks. No case has been made out for increasing the quantum of allowance which the head messengers are now receiving. Having considered the matter I direct that head messengers will be entitled to receive by way of special allowances of Rs. 30/- per month in A Class banks, Rs. 25/- per month in B Class banks and Rs. 20/- per month in C Class banks including banks in the Excepted List. No case has been made out for the grant of higher special allowances to them. There is a demand for a special allowance of Rs. 25/- for deputy head messengers by the State Bank of India Employees Association (Bengal Circle) and the State Bank of India Employees Association (Delhi Circle). No case has been made for the grant of a special allowance to this new category of workmen.

Electricians

5.309. As a result of the modification of the Sastry Award by the Labour Appellate Tribunal, electricians get a special allowance of Rs. 30/- per month in A Class banks, Rs. 25/- per month in B Class banks, Rs. 20/- per month in C Class banks and Rs. 18/- per month in D Class banks. Demands have been made for the grant of a special allowance which varies between Rs. 25/- and

Rs. 50/- per month. The All India Bank Employees Federation had originally demanded a special allowance of Rs. 35/- per month, but by an amendment of its claim it has demanded that electricians should be allowed the same scale as that provided for clerks.

5310. Shri Vajifdar, an electrician of the Chartered Bank, Bombay, submitted that he was a qualified electrician having passed the P.W.D. Supervisory Examination, that he was taken up in the Chartered Bank's service in 1947 on a starting salary of Rs. 100/- per month plus allowances with a promise that his salary would be raised substantially, that the bank gave him for some years double increments in the clerical grade but later on the bank continued to give him only a single increment in the clerical grade and that as his demands were not specifically put forth by the All India Bank Employees Association to which he had made a representation, he had asked for adjudication of the following demands:—

"Scale of salary for :

- (a) Electricians who have passed the Supervisory Diploma Examination of the P.W.D. may be paid at least Supervisory Grade;
- (b) Insurance,
- (c) Tools and instruments for safety device as we work on live wires,
- (d) The present illegal electricians designated by the banks to work under Authorised Electricians as per Government Rule No. 45 of the Indian Electricity Act, 1956 directly under Qualified Electricians (P.W.D. Passed Supervisors) all the time."

At a late stage of the hearing, Shri S. K. Irani, Advocate, appeared on behalf of electricians in general and for Shri Vajifdar. Shri Irani did not indicate the actual grade that should be provided for employees with Shri Vajifdar's qualifications. The present special allowance is not intended to provide for qualified men like Shri Vajifdar. Few banks employ qualified men like Shri Vajifdar. The present allowance is meant for members of the subordinate staff. Enough material has not been placed before me to provide for any special grade for qualified men like Shri Vajifdar. Banks are at liberty to provide for qualified men like Shri Vajifdar such grades or such allowances as they think proper. I am providing for electricians belonging to the subordinate grade, the same allowances as those provided for drivers in different classes of banks. No case has been made out for providing higher allowances or a separate grade for them.

Press Staff of the State Bank of India

5311. There is a small printing press in the Calcutta local head Office of the State Bank of India wherein 2 compositors, 2 press-men, one impositor-cum-distributor and one inker have been employed. The All India State Bank of India Staff Federation has made a claim for a special scale of pay of Rs. 175—5—205—8—235—7—242—8—282—9—300 for compositors, distributors and press-men. The State Bank of India Employees' Association, Bengal Circle, has demanded a special allowance of Rs. 50 for compositors and a special allowance of Rs. 40 for impositors and ink-men. The State Bank of India Employees' Association, Delhi Circle, has demanded a special allowance of Rs. 25 per month for compositors and Rs. 20 per month for impositors and ink-men. Compositors, press-men, impositors-cum-distributors and inkers are at present receiving emoluments payable to members of the subordinate staff under the Sastry Award. No special allowances are granted to them. Wage scales were first fixed for them by the Gupta Award but when the Sastry Award came into operation, these employees opted for the scales of pay, etc., of the Sastry Award as modified. Their position under the Sastry Award and the Gupta Award is shown below:—

	Present Pay Scale under Sastry Award, as modified	Pay scales under Gupta Award
Compositor	Rs. 40—2—54—1—70—2—72 (E.B. at Rs. 66/-)	Rs. 45—3—90
Pressman	Do.	Rs. 30—2—60
Impositor-cum-Distributor	Do.	Do.
Inker	Do.	Do.

Dearness allowance at Rs. 53·12 nP. per month is being drawn by the above employees as against Rs. 25/- per month under the Gupta Award.

The State Bank of India is opposed to the special scale demanded for compositors, distributors and pressmen. Except the inker (ink-man) the duties of other employees require substantially higher degree of skill than the skill required of ordinary members of the subordinate staff and it is but fair that they should be compensated by special allowances. In the former State of Bombay, under a Notification dated 18th January 1956, the Government had prescribed minimum wages in respect of similar categories of employees under the Minimum Wages Act, 1948 as under:—

Compositors	Rs. 95/- per month.
Galley-Pressman or Plate men	Rs. 90/- per month.
Distributors	Rs. 80/- per month.
Helpers	Rs. 45/- per month upto the age of 18. Rs. 55/- per month between the age of 19 and 21, and Rs. 65/- per month of 22 years and above.

In the Award relating to printing presses and newspapers, Shri Merchant, Industrial Tribunal at Bombay had prescribed the following scales of wages:—

Compositors	Grade I : Rs. 120—5—150 Grade II : Rs. 80—5—115 Grade III : Rs. 60—4—80
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Distributors Rs. 45—3 60

Helpers Rs. 30—2—60

These wage scales are effective from 1st July 1948. The dearness allowance awarded by the Merchant Tribunal was at the following rates:—

Upto Rs. 100	Rs. 40/- per month.
Rs. 101 to Rs. 150	Rs. 40/- plus 30 per cent of the salary between Rs. 100/- and Rs. 150/- i.e. Rs. 55/- on a salary of Rs. 150/- per month.

The scheme of dearness allowance is also in force from 1st July 1948.

5.312. In view of the smallness of the printing press at the Calcutta local head office of the State Bank of India and the nature of the duties performed by them, I direct that compositor, pressman and impositor-cum-distributor will be entitled to receive the following allowances:—

Compositor	Rs. 30/- per month.
Press-men	Rs. 20/- per month.
Impositor-cum-distributor	Rs. 10/- per month.

No special allowance is fixed for the inker (ink-man) as the inker belongs to the unskilled category of workmen and the emoluments available under this award for a member of the subordinate staff are considered to be sufficient remuneration. No case is made out for providing a special scale of pay for any of these categories of workmen.

Air Condition (Machine) Operators

5.313. Workmen in general have demanded a special allowance of Rs. 50 per month for air condition (machine) operators. The All India Bank of Baroda Employees Federation has, however, demanded a special allowance of Rs. 75 for "Air Condition Operators-cum-Electricians" in the Bank of Baroda. The All India Bank Employees' Federation had first demanded a special allowance of Rs. 35 but by an amendment of its claim, it has demanded for the air conditioning machine

operators also the same scale as for clerks. The Indian Banks Association has stated that it is the duty of an air condition (machine) operator that he should switch on and off the air conditioning room units and adjust temperature controls and that no special skill or responsibility is involved in this work. The State Bank of India has stated that the demand made by the All India State Bank of India Staff Federation in respect of such person employed by it has since been withdrawn by the Federation. In my view no case is made out for the grant of any special allowance or a clerical grade for this category of workmen.

Machine Operators

5.314. An allowance of Rs. 35 has been claimed by the All India Bank Employees' Federation and few other unions for machine operators. The employees have led no evidence about the nature of the work of the machine operators. The Indian Banks Association has stated that the workmen had demanded a special allowance for this category of employees before the Sastry Tribunal also but it was not granted. No case has been made out for the grant of a special allowance to machine operators in general and the demand is rejected.

Cyclostyle Machine Operator

5.315. There is a demand for a special allowance of Rs. 10 for the cyclostyle machine operators or the Gestetner machine operators. Some of the employees who do this work are being given an allowance of Rs. 5 to Rs. 10 by some banks. Under an agreement with the workmen, the National and Grindlays Bank Limited is paying Rs. 5 as a special allowance to duplicating machine operators. Having regard to the nature of the work required to be done, in my view, it is necessary that a special allowance should be provided for those who are regularly employed to operate a Gestetner machine or a cyclostyling machine. I accordingly direct that a cyclostyle machine operator regularly employed to operate such machine will be entitled to receive a special allowance of Rs. 5 per month in A Class banks, of Rs. 4 per month in B Class banks and Rs. 3 per month in C Class banks including banks in the Excepted List.

Typewriter Mechanics

5.316. A special allowance of Rs. 35 was first demanded by the All India Bank Employees Federation and some unions but by an amendment of the claim, the Federation has demanded a clerical scale for this category of employees also. No evidence has been led and no case has been made out for the grant of a special allowance or a special grade for them and the demand is rejected.

Liftmen

5.317. A demand has been made for a special allowance to be paid to lift-men operating lifts in bank buildings. The minimum amount of special allowance demanded is Rs. 15 and the maximum is Rs. 25 per month. It is the submission of the employees that lift-men are performing a technical job and they have cited instances of concerns where liftmen are provided with a scale higher than the one provided for the other members of the subordinate staff. The banks have submitted that this category of employees does not require any special skill. A demand was made for a special allowance for this category of workmen before the Sastry Tribunal but it was disallowed. While rejecting the demand for special allowance for liftmen, the Labour Appellate Tribunal has observed that the duties of a lift-man are largely mechanical and that he does not require technical knowledge to such an extent as to entitle him to a special allowance. No case has been made out for the grant of a special allowance to liftmen and the demand is rejected.

Guaranteed Peons

5.318. The All India Bank Employees Association and several other workmen's organisations have demanded a special allowance of Rs. 10 per month for guaranteed peons. The Allahabad Bank Employees Union has demanded a special allowance of Rs. 15 per month for them. The All India Bank Employees Federation has demanded that they should be placed in the clerical grade. According to the banks, guaranteed peons perform the ordinary duties of a member of the subordinate staff in the cash department and they are called guaranteed peons because faithful performance of duties by them is guaranteed by the chief cashiers. No case has been made out for the grant of a special allowance or a special grade for them, and the demand is rejected.

Hundi presenters and Bill collectors

5.319. The All India Bank Employees Association has submitted that "persons carrying on the duties of a clerical nature or of the nature of a cashier, i.e., presenting hundies, bills etc., and receiving cash on behalf of the banks, be classed as clerks and where nature of job is only to present the hundies etc., and to carry intimations, etc., be classed as hundi presenters and paid a special allowance" at the rate of Rs. 10/- per month. The All India Bank Employees Federation has demanded that employees designated as hundi presenters should be placed in the clerical grade, but, at the same time, it has also demanded a special allowance of Rs. 20/- per month for them. By and large, there is a demand for special allowance varying between Rs. 10/- and Rs. 20/- per month for hundi presenters. At the time of the hearing, it was stated that hundi presenters are of two types, (1) hundi presenters who are clerks, for whom a clerical grade has been demanded and (2) hundi presenters belonging to the subordinate staff, for whom a special allowance has been demanded. The All India Bank Employees Association submitted that under the Sen Award, the hundi presenters and bill collectors were placed in a scale in between the clerks and the subordinate staff, but the Sastry Award omitted to prescribe any special allowance for them. It is also stated that in practice, several banks are allowing a special allowance of Rs. 5/- to Rs. 10/- per mensem to the hundi presenters and bill collectors. The All India Bank Employees Association has given a list of 23 banks wherein clerical salaries are being paid to employees designated as hundi presenters or bill collectors. A list of banks has also been furnished wherein a special allowance of Rs. 5/- is being paid to hundi presenters and bill collectors. In the case of the Punjab National Bank it has been pointed out that the bank provides an intermediary pay-scale i.e. the average of the clerks salary and the peons' salary. The New Bank of India pays Rs. 10/ per mensem to hundi presenters and bill collectors. The All India Bank Employees Federation has submitted that the hundi presenters for whom a special allowance of Rs. 20/- had been demanded, present hundies and intimations of bills and documents to the constituents and secure their acceptance. The Indian Banks Association has stated that the hundi presenters present bills or cheques drawn on local parties to them and obtain their acceptance, where necessary, and normally bills are payable at the bank's counter. About bill collectors, the Association has stated that they collect payment of bills drawn on local parties and that usually payment of such bills is made by the parties by cheques. The Association does not think that there is any special skill or responsibility involved in the work of hundi presenters and bill collectors. About the hundi presenters and bill collectors, the Bombay Exchange Bank has stated that these are members of the subordinate staff who present bills of exchange on local parties within certain areas and their work is of the same nature as that of dak peons. They submit that clerical grade was not justified for this category of employees. It has stated that normally all bills are payable by the parties at the bank and in a few cases where it is necessary to collect payment, the work is generally performed by a clerk.

5.320. Persons who are called hundi presenters and bill collectors do different work in different banks. There is no standardisation of duties. The work of some of them involves a greater degree of responsibility than that of others. In some banks clerks are employed to do the work of presenting hundies and documents and recovery of moneys. The work done by clerks is generally of a more responsible nature. It is not possible to lay down that only the members of the clerical staff should be employed to do all the work that is being done by hundi presenters and bill collectors at present or that any one who is entrusted with the work of presenting hundies or bills should be put in the clerical cadre. There are many members of the subordinate staff who do the work in connection with presenting hundies and bills which does not call for a special allowance. There are, however, some workmen who are entrusted with such work as would call for a special allowance and in fact some banks are paying such special allowance. I direct that members of the subordinate staff who are generally employed to present hundies, bills or documents and are also authorised to collect money even if it be to a limited extent will be entitled to receive a special allowance of Rs. 10 per month in A and B Classes of banks and of Rs. 5 per month in C Class banks including banks in the Excepted List.

Assistant Jamadars

5.321. An allowance of Rs. 20/- per month has been generally demanded for assistant jamadars. The State Bank of India Employees Association, (Bengal Circle), and the State Bank of India Employees Association (Delhi Circle) have

demanded a special allowance of Rs. 25/- per month. Some banks are paying a special allowance of Rs. 15 per month to assistant jamadars assistant havildars and naiks. It is urged that the duties of assistant jamadars are the same as those of the naiks. No evidence has been led about the same. If that be so, the category of naiks will cover them. No case has been made out for providing a special allowance for a new category of workmen.

Record Suppliers, Sorters in the Stationery Department and these in charge of Record.

5.322. There are demands for special allowances for record-suppliers, sorters in the stationery department and for those who are in charge of the record. The allowances demanded are from Rs. 20/- per month to Rs. 50/- per month in the case of record-suppliers, from Rs. 20/- per month to Rs. 25/- per month in the case of sorters in the stationery department and Rs. 25/- per month in the case of those in charge of the record. It may be stated that the All India Bank Employees Association and the All India Bank Employees Federation have not made any demand in respect of these categories of workmen. No case has been made out for the grant of any special allowance to any of these categories of workmen and the demand is rejected.

Cycle Peons

5.323. There is a demand for a special allowance for cycle peons and the amount of special allowance demanded ranges from Rs. 7/- to Rs. 15/- per month. No case has been made out for a special allowance for this category of workmen and the demand is rejected.

Cleaners, Caretakers and Pressmen attending copying work

5.324. The Vadodra Rajya Bank Nogar Sangh has demanded a special allowance of Rs. 15 per month for cleaners, caretakers and pressmen who attend to copying work. No evidence was led in support of this demand. No case has been made out for the grant of any special allowance to any of these categories of workmen and the demand is rejected.

Godown Department Peons

5.325. A special allowance of Rs. 10/- per month has been demanded by the Cochin Commercial Bank Employees Association for godown department peons. No evidence has been led in support of this demand. No case has been made out for the grant of any special allowance for this category of workmen and the demand is rejected.

5.326. I lay down the following minimum special allowances for the following categories of the members of the subordinate staff:—

<i>Categories of employees</i>	<i>Class of Banks</i>		
	A	B	C
	Rs.	Rs.	Rs.
1. Head cash mazdoors	5	4	3
2. Watchmen, chowkidars and cash durwans	5	4	3
3. Armed guards	10	9	8
4. Daftries	10	9	8
5. Havaldars, Jamadars, dafadars, naiks and head peons	15	12	10
6. Drivers and head messengers	30	25	20
7. Electricians	30	25	20
8. Compositors in the State Bank of India	30	..	..

Categories of employees	Class of banks		
	A	B	C
	Rs.	Rs.	Rs.
9. Pressmen in the State Bank of India	20	.	..
10. Impositor- <i>can</i> -distributor in the State Bank of India	10	..	..
11. Cyclostyle machine operators, regularly employed to operate such machine	5	4	3
12. Hundi presenters and bill collectors who are authorised to collect money	10	10	5

The special allowances prescribed above for C Class banks will also be payable to employees in banks in the Excepted List. The special allowances prescribed above would be in supersession of those prescribed under the Sastry Award, as modified. When an employee falls within more than one category, he would be entitled to receive the special allowance at the higher rate applicable to him. The general observations made in the case of the other categories of workmen in connection with special allowances will also apply to the members of the subordinate staff.

5.327. There is no other category of workmen for whom a case is made out for the grant of any special allowance.

5.328. There are a number of categories for which special scales or grades of pay have been demanded. No case has been made out for providing such special scales or grades of pay for them. Save as otherwise provided in this award the demands which have not been specifically dealt with or granted should be deemed to have been refused.

(xxv) Method of adjustment in the scales of Pay

5.329. The All India Bank Employees Association has submitted that the existing employees should be fitted into new scales of pay as follows:—

- “(1) The present salary for the purpose of adjustment shall mean the salary which an employee would be drawing on the date from which this Honourable Tribunal's award would be made effective;
- (2) In no case the present salary of an employee shall be reduced;
- (3) As regards the monetary benefits enjoyed by the employees in any case and at no stage of an employee's career should his total emoluments be less than the totality of such benefits under the existing scheme, rule or Awards and that subject to this principle a bank may be allowed to adjust such benefits in the light of the requirements of this Tribunal's Award.
- (4) If the salary of an employee will be less than the minimum of the new scale of pay which would be made applicable to him his present salary should be brought upto the minimum of the new pay scale in the first instance.
- (5) Then all employees should be fitted in the new scales of pay at a point corresponding to the number of years of service they have put in the respective grades.
- (6) Where a workman has received an additional increment or increments in his basic pay at the initial start or by way of special promotion later on his length of service shall be taken to be the period which would ordinarily be necessary to bring the workman with the usual initial start without additional increments to that basic pay as on 31st January, 1950 in the then existing scale.”

5.330. It has further pleaded that on upgradation of banks “salaries of employees should be readjusted in the scale of pay pertaining to such higher class by grant of as many increments in the relative scales of pay as necessary to make up the gap between the starting salary in the scales of pay prescribed for the class within which the change has occurred.”

5.331. The All India Bank Employees Federation and the Vadodra Rajya Bank Nokar Sangh have submitted that it was well established that appropriate adjustment of the existing salaries of the employees into the revised scales of pay should be granted with particular reference to the length of service of the employees, that the most equitable method of adjustment would be on point to point basis having regard to the length of service of the employees to compensate them for the inadequate increments in the past and greater family responsibilities of senior employees, that a large number of employees have not been given increments on account of their having reached the maximum of the grade for a number of years, that they should also be given special increments and adjusted in the revised grades and that in the revised scales of pay, in any event efficiency bar should not be applied while adjusting the salaries of the employees. They have stated that the adjustments granted in the modified Sastry Award were not adequate, more so for the senior employees.

5.332. The All India State Bank of India Staff Federation, the State Bank of India Staff Union, Andhra Pradesh and the All India Bank of Baroda Employees Federation have made claims in this respect similar to those of the All India Bank Employees Association.

5.333. The State Bank of India Employees Association (Bengal Circle) and the State Bank of India Employees Association (Delhi Circle) have claimed that (a) point to point adjustment should be given, (b) an employee's total emoluments as on 31st March 1959 should not be reduced in any case and (c) subject to this an employee shall be fitted into the new scales by putting him at a stage where the total pay and dearness allowance drawn by him under the present scales at least equals or is next above in the total pay and dearness allowance under the new scale. They have stated that 'pay' includes basic pay, special allowance and officiating allowance.

5.334. The State Bank of Patiala (All Cadres) Employees Association has claimed that an employee should be adjusted into the new scale of pay on point to point basis (pay includes basic pay plus dearness pay), that the total emoluments of an employee which he is drawing on the 31st March 1960 should not be reduced in any case and that he should be adjusted into the new scale of pay by putting him at a stage where the total pay and allowances drawn by him under the existing scale at least equals or is next above in the total of the pay and the allowances under the new scale.

5.335. The South Gujarat Bank of Baroda Employees Union has submitted that point to point adjustment should be granted to all the employees irrespective of the length of service, that the employee should be "so fitted in the new awarded scale that where the total of pay and dearness allowance drawn by him under the present scales at least equals or is next above in the total of pay and the dearness allowance under the new scales", that an employee's total emoluments as on 31st March 1959 should not be reduced in any case, and that in no case employees reaching the maximum should be staggered, but they should continue to draw the increments in the supervisory grade demanded by the Union. It has also submitted that the special allowances should be added after adjustments have been made.

5.336. The Cochin Commercial Bank Employees Association has *inter alia* claimed that any special increments or higher starts or higher basic pay at the time of recruitment or afterwards should be retained while giving point to point adjustments.

5.337. The Indian Banks Association has submitted that the method of adjustment suggested by the employees showed that what they wanted was not only point to point adjustment but something more. It has stated that numerous Industrial Tribunals have time and again rejected the demand for point to point adjustment. It has further stated that there was no scope whatever for any adjustment, much less point to point adjustment.

5.338. As regards the claim for adjustment on upgradation of a bank, the Association has pleaded that when a particular bank moves from a lower class to a higher class, there was no scope or occasion for making any adjustments, that in fact neither the Sastry Tribunal nor the Labour Appellate Tribunal thought it necessary to prescribe for such adjustments and this was for a very good reason, namely, that the mere increase of working funds above a particular limit did not necessarily indicate that prosperity which would justify undertaking a heavy financial liability consequent upon re-adjustment in salary scales, that the Sastry Tribunal as modified laid down one combined running scale for all classes of banks, that the scale was again split up into different sections to meet the requirements

with regard to each class of banks and each area, that these scales were based on logical and scientific principles and that they did not need any adjustments being made when any particular bank moves from one class to another.

5.339. The Bombay Exchange Banks Association has pleaded that the workmen were not only claiming point to point adjustment in the grade but desire their emoluments in excess of such adjustment to be protected. It has submitted that there was no case for considering a revision of existing pay scales and the question of adjustment, therefore, did not arise, that assuming that the Tribunal was disposed to make some revision in the scale, in view of the fact that time or incremental scales have been in existence and suitable adjustments were made by the Sastry Award as modified, no question could arise of any adjustment and certainly not point to point adjustment in the grade, and that if there was to be an adjustment at all, it should merely be to fit the workman in the scale if he was not in a step in the scale on the date fixed in the Award. It has submitted that Industrial Tribunals grant or refuse to grant adjustments on certain well-settled principles, that the first principle is that as a rule, point to point adjustment should not be allowed and the second principle is that adjustments by way of granting increments should only be considered if the facts are that there have either been no scales of wages in existence before and workmen have not received reasonable increments or the scales are radically revised and the adjudicator is of opinion that the workmen have not received a fair deal in the past and that in the present case none of the above principles can be invoked and therefore in the circumstances no question arises of adjustment.

5.340. The State Bank of India has submitted that point to point adjustment is not allowed as a rule by Industrial Tribunals, that such a demand was rejected by the Sastry Tribunal, that the principles on which adjustment directions are given are well-settled and that applying those principles to the present case not only is point to point adjustment ruled out but also any other form of adjustment, except placing an employee in a step in any revised scale of wages if he is not already in step. It has further submitted that the demand that an employee's total emoluments as on 31st March 1959 should not be reduced was contradictory to the demand for revised pay scales and dearness allowance, that for purposes of adjustment into salary scales, dearness allowance was not taken into account unless a consolidated wage scale was awarded, that it is the basic wage that has to be adjusted into any revised scale, the dearness allowance being ignored, that when considering the fairness or reasonableness of a wage structure, it is well-settled that the total emoluments and benefits received or receivable by an employee are most relevant and that similarly for purposes of adjustment, special allowance and officiating allowance cannot be taken into account unless the Tribunal merges these allowances into the basic wage.

5.341. The State Bank of Patiala has submitted that the demand for point to point adjustment was unreasonable and unacceptable, that the unreasonableness of the demand was accentuated by the further demand that pay should include basic pay plus dearness pay, latter pay being one of the peculiar features in the bank. The bank has submitted that in the case of existing employees, the adjustment granted in 1958 was generous and that there was no need to grant any more adjustment.

5.342. The Northern India Banks Association has submitted that the method of adjustment of the salaries as provided under the Sastry Award was fair and equitable and that no deviation for it be made. It has also submitted that the wage structure of employees in the banking industry was fixed on the basis of time scale, that if a new time scale was fixed in accordance with the suggestion made by them, each employee should be given a basic wage in the new scale corresponding to his wage at the time of introduction of the new scale and that in cases when no exact fitting of the employee's wage was possible, he should be entitled to the next higher step in the scale.

5.343. As regards the adjustment on upgradation of a bank the Association has submitted that movements to the higher class should involve only the raising of the minimum starting salary applicable to a bank of that class, that the acceptance of the proposal made by the All India Bank Employees Association would impose an unconscionably huge burden on the bank, which would greatly cripple its earning capacity, that this is all the more so because the movement of a bank to a higher class is nearly in all cases the result of a programme of expansion and development, which itself inevitably involves an abnormal increase in expenditure, and that apart from the individual interest of the bank, it is in the larger national interest that such a proposal be not accepted, as development or banking would thereby be seriously hampered.

5.344. The National Bank of Lahore Ltd. has submitted that the method of adjustment claimed was too much one-sided, that the application of the benefits of the award retrospectively was rather not in keeping with good business and that the method of adjustment should be such which was in consonance with justice, both to the employer and the employee. The bank has further submitted that all benefits awarded to the workmen should be made applicable only prospectively.

5.345. The Travancore Cochin Bankers Association has submitted that the present pay scales and emoluments may be allowed to continue and the question of adjustment in the scales of pay does not arise, that, however, if any award is made, then in regard to the method of adjustment of the existing staff, the conditions stipulated in para 292 of the Sastry Award may be incorporated subject to an amendment that past service may be accounted in the manner given below:

"In the case of existing workmen, one increment may be allowed for every completed 5 years of service".

5.346. The Bharatha Lakshmi Bank has submitted that it was willing to accept items (1) to (4) of the claim presented by the All India Bank Employees Association. It has further submitted that items (5) and (6) for weightage etc. should not be made applicable to it. The Jaya Laxmi Bank has submitted that if an employee at present gets less than the minimum as per the new award, he should be fitted into the grade without giving any retrospective effect.

5.347. I am providing by this award that the provisions herein contained relating to the scales of pay, dearness allowance, special allowance and officiating allowance will come into operation from the 1st day of January 1962 and the workmen will have to be fitted in the new scales of pay as from 1st January 1962. For the aforesaid purpose workmen employed in banks who are before me may be broadly classified into two groups. The first group consists of workmen who were drawing basic pay on 1st January 1962 according to the scales of pay provided by the Sastry Award as modified either by virtue of the binding character of the provisions of the Sastry Award as modified or by reason of the banks concerned having adopted as a result of agreement or otherwise the scales of pay provided by the Sastry Award as modified. The second group consists of workmen who on 1st January 1962 were employed in banks which are not governed by the provisions of the Sastry Award as modified and who were not drawing basic pay on the footing of the scales of pay provided by the Sastry Award as modified.

5.348. I will first deal with the cases of persons falling within the first group. Having carefully considered all aspects of the matter including the method adopted for fixing the new scales of pay, I direct that these workmen be fitted in the new scales of pay from 1st January 1962 on what I may call stage to stage adjustment basis i.e. a workman who was drawing a basic pay at particular stage in the time on the same date on which the increments would have fallen due in the existing scale" will draw the basic pay at the same stage in the new scale applicable to him provided under this award. A workman may have reached a particular stage in the existing scale as a result of years of service put in by him or as a result of any extra or advance increments that may have been given to him or as a result of his progress being retarded by reason of disciplinary or other action taken against him by way of stoppage of increments in the past. There may be other circumstances affecting him which might account for the particular stage in an existing scale reached by him. Whatever may be the stage which he may have reached in the existing scale as on 1st January 1962 will be the stage in the new scale of pay in which he will be fitted. In order to arrive at the basic pay of a workman as on 1st January 1962 in the new scale of pay the number of stages which the workman has covered in the existing scale will be deemed to have been covered by the workman in the new scale of pay e.g. a clerk employed in an A Class bank in Area I who was entitled on 1st January 1962 to a basic pay of Rs. 140 which is at the 10th stage in the existing scale of pay viz. Rs. 85-5-100-6-112-7-140-8-164-9-227-E.B.-9-245-10-265-15-280 will be entitled as on 1st January 1962 to a basic pay of Rs. 204 which is at the 10th stage in the new scale of pay applicable to him, viz. Rs. 140-6-182-11-281-13-307-15-322-E.B.-15-337-16-369-18-405. If by any chance a workman in the existing scale of pay is drawing by way of basic pay an amount which does not coincide with any particular stage in the existing scale of pay but it falls between two stages in the scale of pay, then he will be deemed to have reached the higher stage in the scale of pay.

5.349. After a workman is fitted as aforesaid, a question will arise about the time when the increments in the new scale of pay should generally fall due. For this purpose, I direct that the increments in the new scale will generally fall due

on the same date on which the increments would have fallen due in the existing scale if the existing scale had been preserved so that the period of service since the date of the last increment in the existing scale will be available to the workman for the purpose of calculating the period for obtaining an increment in the new scale of pay.

5.350. As a result of the provisions of this award D Class banks will be deemed to have ceased to exist as from 1st January 1962 and the workmen who were drawing basic pay on the scales of pay applicable to D Class banks will be fitted in the new scales of pay applicable to C Class banks under this Award except where any bank in the D Class has been put in the Excepted List. The workmen who are drawing pay in accordance with the existing scales of pay applicable to (i) C-2 and C-1 Class banks, (ii) B Class banks and (iii) A Class banks will be fitted in the new scales of pay applicable to (i), C Class banks (ii) B Class banks and (iii) A Class banks respectively under this award. The workmen who have been employed by D Class banks now falling within the Excepted List of banks will be fitted in the new scales of pay applicable to banks in the Excepted List.

5.351. As a result of the extinction of Area IV and the upgradation of places falling in various Areas as from 1st January 1962 workmen employed at places in Area IV and other Areas according to the Sastry Award as modified will be fitted in the new scales of pay applicable to the areas in which such places fall under this award.

5.352. In all the aforesaid cases the principles of adjustment stated earlier will apply.

5.353. As regards the workmen falling in the second group consisting of persons who on 1st January 1962 were employed in banks which are not governed by the provisions of the Sastry Award as modified and who were not drawing basic pay on the footing of the scales of pay provided by the Sastry Award, as modified having considered all aspects of the matter, I give the following directions.

5.354. The workmen will as on 1st January 1962 be first fitted in the appropriate scales of pay provided under the Sastry Award as modified having regard to the working funds of the banks concerned and having regard to the places where the workmen were employed. Thus the workmen of the American Express Co. Inc. employed in its office at Bombay will have to be fitted into the pay scales applicable to A Class Banks in Area I under the Sastry Award as modified.

5.355. After the workmen have been notionally so fitted, they will again be refitted into the new scales of pay provided under this award on the basis of the provisions applicable to workmen in the first group set out above.

5.356. For the purpose of fitting the workmen into the scales of pay provided under the Sastry Award, as modified I am giving directions similar to those provided under the Sastry Award as modified subject to certain changes which I consider to be necessary having regard to the lapse of time after the coming into force of the provisions of the Sastry Award as modified. For the aforesaid purpose of fitting the workmen in the scales of pay provided by the Sastry Award as modified, I give the following directions:—

For workmen who entered service of the bank before 1st January 1959.

- (i) The workman's basic pay as on 1st January 1959 shall not be reduced in any case.
- (ii) Subject to rule (i) the adjusted basic pay in the scale provided in the Sastry Award as modified shall not exceed what point to point adjustment would give him or the maximum in the scale provided by the Sastry Award as modified.
- (iii) In the matter of adjustment, all efficiency bars, whether in the previously existing scales or in the scales provided by the Sastry Award as modified, should be ignored.
- (iv) Subject to rules (i) to (iii) a workman's basic pay in the scale provided by the Sastry Award as modified shall be fixed in the following manner:—
 - (a) A workman shall first be fitted into the scale of pay of Sastry Award as modified by placing him at the stage in the Sastry Award scale as modified equal to, or next above his basic pay as on 1st January 1959 in the scale then in force in the bank concerned (hereinafter called the bank's scale).

- (b) To the basic pay into which he is fitted under clause (a) annual increment or increments in scale provided by the Sastry Award as modified as from that stage onwards should be added at the rate of one increment for every completed three years of his service in the same cadre as on 1st January 1959.
- (c) Such increments shall not however exceed four in number.
- (d) After adjustments are made in accordance with clauses (a), (b) and (c) *supra*, two further annual increments in the scale provided by the Sastry Award as modified will be added thereto for service for the two years of 1960 and 1961.
- (v) (a) Where a workman received an additional increment or increments in his basic pay either at the initial start or by way of special promotion later on, his length of service will be taken to be the period which would ordinarily be necessary to bring a workman with the usual initial start without special promotion to that basic pay as on 1st January 1959 in the bank's scale (fractions being rounded off to the nearest integer).
- (b) Similarly, where a workman's increment or increments have been withheld prior to 1st of January 1959, the length of service in his case will be calculated by subtracting the number of years for which the increments have been withheld.
- (c) In the case of former employees of a bank at its branches in Pakistan re-employed in India the aggregate of actual years of service in both areas as adjusted under rule (v) (a) or (b), as the case may be, will be taken to be the length of service.
- (vi) The circumstance that a workman has already attained the maximum of the bank's scale and has been at that maximum for some years, shall not in any way affect his right to have his basic pay adjusted in accordance with the above directions.

5.357. The provisions contained in the aforesaid clauses (iv) (b) and (iv) (c) will, however, not apply to the employees of the American Express Co. Inc. This bank would fall in Class A. Even under the provisions of the Sastry Award as modified the corresponding provisions were not applicable to banks falling in Class A. I direct that so far as the employees of the American Express Co. Inc. are concerned, the following provisions will be substituted for the aforesaid provisions contained in clauses (iv) (b) and (iv) (c):—

"To the basic pay into which he is fitted under clause (a) the annual increment or increments in the scale provided by the Sastry Award as modified as from that stage onwards should be added at the rate of one increment for every completed three years of service in the same cadre as on 1st January 1959 upto a limit of twelve years' service; thereafter one increment for every four years of service upto another eight years' service, and after that one increment for every five years of service."

For workmen who joined the service of the bank on or after 1st January, 1959.

The workman shall be fitted into the scale of pay provided by the Sastry Award as modified on a point to point basis as though it had been in force since he joined the service of the bank, provided that his adjusted basic pay is not less than what it would be under a point to point adjustment on the corresponding bank's scale.

General rules.

- (1) Even after the final adjustment, of workmen in the first group and in the second group in the new scales of pay, the efficiency bar in the new scale may apply, but only if the stage for applying it has not been already reached.
- (2) Under the provisions of the Sastry Award as modified, two additional increments in the basic scales of pay have been given for graduation and one increment for passing Part I of the C.A.I.I.B. and C.A.I.B. examinations and another for passing Part II of the aforesaid examinations. The workmen who have not received any such increments will be entitled to be credited with increments as provided in the Sastry Award as modified if they have graduated or

- passed Part I or Part II of the aforesaid examinations prior to 1st January 1962. Where, however, in any bank's scale graduates and/or persons who have passed the aforesaid examinations have been started on a higher scale of basic pay, the additional increments granted for graduation or for passing of such examinations are not to be credited.
- (3) Wherever as a result of the adjustment or adjustments as directed above the total emoluments under the new scales made up of basic pay, dearness allowance, special allowance and house rent allowance fall short of the total emoluments of any workman under the above heads as on 1st January 1962, the difference shall be given to him by way of an additional allowance to be called "temporary adjustment allowance" until such difference is fully absorbed by future increments in the new scale of pay. (The right of any bank to stop annual increments is not to be affected by this rule).
- (4) For the purpose of making the requisite adjustments and making payments on account thereof, banks shall have a maximum period of five months' time from the date when this award becomes enforceable under the provisions of section 17A of the Industrial Disputes Act, 1947.

5.358. In future whenever a bank as a result of the increase in its working funds as provided in this Award is upgraded, the workmen then employed in the bank will have to be fitted in the scales of pay applicable to the class to which the bank has been upgraded. For the aforesaid purpose the principles enunciated above of stage to stage adjustment should be employed.

5.359. When a bank gets downgraded as a result of the decrease in its working funds as provided in this award, then the workmen then employed in the bank will have to be fitted into the scales of pay applicable to the class in which the bank will fall. For the purpose of fitting the workmen into such scales of pay, the aforesaid principles of stage to stage adjustment should be employed. Following the Sastry Tribunal I have already provided in paragraph 4.126 that the change over should not adversely affect the then existing employees. The Sastry Tribunal has amplified the aforesaid provision by laying down that the change over should not adversely affect the total emoluments of the then existing employees drawn by them on the date of the said change over and that by total emoluments was meant basic pay, dearness allowance, house rent allowance and such other allowances which were given in recognition of higher types of work. In order that workmen may not be so adversely affected I direct that the amount of the difference between the total emoluments consisting of basic pay, dearness allowance, house rent allowance and special allowance, if any, immediately before and immediately after such downgradation should be given to the workman by way of an additional allowance to be called "temporary adjustment allowance" until such difference is fully absorbed by future increments in the altered scale of pay. (The right of any bank to stop annual increments will not be affected by this provision).

5.360. Provisions similar to those laid down above will apply *mutatis mutandis* when a place subsequently falls within a higher or a lower area.

5.361. As regards workmen who have joined service between 1st January 1962 and the date when this award becomes enforceable under the provisions of section 17A of the Industrial Disputes Act, 1947, they will be fitted into the new scales of pay on the same principles as those set out above from the dates when they respectively joined service.

(xxvi) Reliefs

5.362. As a result of the abolition of separate Area IV, if no relief was granted to banks other than banks in the Excepted List, there would be a sudden rise in the burden which the banks would have to bear in connection with basic pay and dearness allowance and in connection with provident fund contribution and other benefits granted to workmen which are dependent on the amount of basic pay. At the all-India working class consumer price index No. 123 (1949-100), the total emoluments consisting of basic pay and dearness allowance which would be payable to the members of the clerical staff and the subordinate staff in Area IV in the first year of service by various classes of banks under the Sastry Award, as modified are given in the table below. The total emoluments consisting of basic pay and dearness allowance that would be payable to those very employees except those employed in banks in the

Excepted List at the same index number under this award, if no relief was granted, are also indicated in the said table.

Total emoluments under the Sastry Award as modified payable in the 1st year of service in Area IV.				Total emoluments under this award payable in the 1st year of service in Area III, if no relief was granted.			
CLASS OF BANKS							
A	B	C-1	C-2	D	A	B	C
<i>Clerical staff</i>							
99.90	90.90	87.90	87.90	84.90	138.00	128.80	119.60
<i>Subordinate staff</i>							
65.25	57.00	42.50	42.50	40.50	88.80	81.60	74.40

In view of the large difference between the two sets of emoluments, I consider that the burden should not fall upon the banks all of a sudden but should fall gradually, so that the banks should be able to adjust themselves to the new scales of pay and dearness allowance. I accordingly direct that all workmen who immediately prior to the date when this award becomes enforceable under the provisions of section 17-A of the Industrial Disputes Act, 1947 were entitled to receive basic pay according to the scales of pay applicable to Area IV under the Sastry Award as modified should, after they are fitted in the new scales of pay applicable to Area III, be paid by way of basic pay and dearness allowance (i) from 1st January 1962 till the end of the year 1962, 20 per cent less than what they would otherwise have received but for the relief hereby granted, (ii) from 1st January 1963 till the end of the year 1963, 15 per cent less than what they would then have been entitled to receive if no relief had been granted from the very commencement (i.e. from 1st January 1962), (iii) from 1st January 1964 till the end of the year 1964, 10 per cent less than what they would then have been entitled to receive if no relief had been granted from the very commencement (i.e. from 1st January 1962), and (iv) from 1st January 1965 till the end of the year 1965, 5 per cent less than what they would then have been entitled to receive if no relief had been granted from the very commencement (i.e. from 1st January 1962). From and after 1st January 1966 they will receive the same amount which they would otherwise have received but for the reliefs hereby granted. The reliefs provided as aforesaid will also be available in respect of workmen to whom the provisions of the Sastry Award as modified do not apply and who were employed at places falling within Area IV immediately prior to the date when this Award becomes enforceable. Notwithstanding anything herein contained no such workman will be paid a lesser amount by way of total emoluments consisting of basic pay and dearness allowance than what he would have received if this award was not made applicable to him. The amount of such difference will be paid to him by way of special adjustment allowance until the same is fully absorbed by reason of the increasing amounts becoming payable to him by way of basic pay and dearness allowance under this award.

5.363. In order that there may not be any distinction between workmen who may be newly employed by banks for service at places in erstwhile Area IV during the aforesaid years 1962, 1963, 1964 and 1965 after the date when this award becomes enforceable and the workmen who were in employment of banks

upto that date, I direct that banks will be entitled to pay to all such newly recruited workmen working at places in the erstwhile Area IV for the aforesaid years the same amounts which are directed to be paid to workmen referred to in the preceding paragraph working at places in erstwhile Area IV. This relief will also provide an incentive to banks to open branches in erstwhile Area IV during the Third Five Year Plan period.

5.364. Lower scales of pay have been provided for workmen employed in banks in the Excepted List. The reliefs provided in the preceding paragraphs will not therefore be available to such banks.

5.365. The reliefs provided in the preceding paragraphs will not be available in respect of workmen who have been transferred from places in higher areas whose basic pay in accordance with the scales of pay applicable to higher areas is protected.

5.366. In the chapter relating to the classification of banks, I have stated that the Bharatha Lakshmi Bank Ltd., the Indian Insurance and Banking Corporation Ltd., and the Miraj State Bank Ltd., are entitled to some relief. I have similarly stated that the Chaldean Syrian Bank Ltd., the Gadodia Bank Ltd., and the Jaya Laxmi Bank Ltd., which have recently emerged from Class D under the Sastry Award as modified and have gone to the present Class C-1 under the Sastry Award as modified, and the Pangal Nayak Bank Ltd., which at present is not governed by the provisions of the Sastry Award as modified are entitled to some relief. These banks will get relief in connection with certain workmen under the provisions hereinbefore contained. These banks are entitled to some relief in respect of other workmen also. Taking all circumstances into consideration, I direct that the aforesaid seven banks will pay to their workmen other than those in respect of whom relief has already been provided, by way of basic pay, and dearness allowance (i) from 1st January 1962 till the end of the year 1962, 6 per cent less than what they would otherwise have received but for the relief hereby granted, (ii) from 1st January 1963 till the end of the year 1963, 6 per cent less than what they would then have been entitled to receive if no relief had been granted from the very commencement (i.e. from 1st January 1962), (iii) from 1st January 1964 till the end of the year 1964, 4 per cent less than what they would then have been entitled to receive if no relief had been granted from the very commencement (i.e. from 1st January 1962), (iv) from 1st January 1965 till the end of the year 1965, 2 per cent less than what they would then have been entitled to receive if no relief had been granted from the very commencement (i.e. from 1st January 1962). From and after 1st January 1966 they will receive the same amount which they would otherwise have received but for the reliefs hereby granted.

5.367. While I am considering the question of granting reliefs I will deal with the case of the South Indian Bank Limited, Trichur which has claimed that no further burden should be imposed upon it for a period of 5 years. At the request of the bank a special hearing was given to the bank, and Shri Sheshadrinathan appeared in support of the claim made on behalf of the bank. This bank was established in the year 1929. Its head office is at Trichur. Its paid-up capital in the year 1959 was 13.09 lakhs and in the year 1960 was Rs. 13.41 lakhs. In the year 1959 the bank's reserves were Rs. 7.54 lakhs and in the year 1960 they were Rs. 8.51 lakhs. Its deposits were Rs. 535.34 lakhs in the year 1959 and were Rs. 473.91 lakhs in the year 1960. The working funds of the bank for the years 1960 and 1961, as given by the bank, were Rs. 5,84,27,000 and Rs. 4,81,62,000, respectively. It declared a dividend of 11 per cent in the year 1959 and of 9 per cent in the year 1960. As on 30th September 1961 this bank had 31 offices including the branches taken over from the Venadu Bank Ltd. Out of these, 2 are in Area I, 8 are in Area II, 8 are in Area III and 13 are in Area IV. In the year 1929, the bank made a profit of Rs. 3,730, in the year 1944, its net profit was Rs. 77,701, in the year 1946 it was Rs. 1,28,752, in the year 1952 it was Rs. 2,69,624, in the year 1957 it was Rs. 3,23,712, in the year 1959 it was Rs. 3,96,553 and in the year 1960 it was Rs. 3,71,632.

5.368. The Travancore Cochin Banking Inquiry Commission considered the financial position of this bank and observed at page 98 of its report that as regards the bank's capacity to implement the Labour Appellate Tribunal's decision with retrospective effect from 1st April 1954, it had built up substantial reserves, its deposits and working capital trends were satisfactory, its gross earnings and gross profit had steadily risen and despite higher establishment charges its net profit had not been substantially affected and it had been able to maintain the dividend rate at 9 per cent during the previous four years. It

has further observed that the bank had voluntarily extended the provisions of the Government modified decision to its offices in the exempted area with effect from 1st October 1954 and that even on a conservative estimate, the bank would not find any difficulty in implementing the Labour Appellate Tribunal's decision with retrospective effect from 1st April 1954.

5.369. By the Industrial Disputes (Banking Companies) Decision Amendment Act of 1957, the name of this bank was added to the list of C Class banks which were able to bear the burden of the dearness allowances payable under the Labour Appellate Tribunal's decision. This bank has been paying remuneration to its workmen as a C-1 Class bank. In the Written Statement filed by the Travancore Cochin Bankers' Association *inter alia* on behalf of this bank, it has been pleaded that "the Commission overlooked the problems relating to this bank and on a general study of the progress achieved by it during the period, recommended that the bank was in a position to pay Labour Appellate Tribunal scales of pay and allowances". This bank has pleaded its inability to pay higher wages than what it is paying at present. Shri Sheshadrinathan stated that this bank has been asked by the Reserve Bank of India to take over the assets and liabilities of the Catholic Bank of India Limited, the Venadu Bank Limited and the Anthraper Bank (Private) Limited and that if these three banks were amalgamated with the South Indian Bank Limited, considerable adjustments would be required to be made and that the bank should have sufficient time to absorb the employees of these banks. He stated that in Area IV this bank has voluntarily paid wages on the basis of wages payable in Area III and he claimed that for a period of 5 years no further burden should be imposed upon the bank.

5.370. Having carefully considered the case of this bank, in my view no special case is made out for exempting this bank from the operation of this award. When other banks amalgamate with it under the terms and conditions of amalgamation this bank will get certain relief as regards the employees whose services are taken over by it. This bank will be in a position to bear all the burdens imposed by this award and no relief is given.

Item 3:—Dearness allowance with particular reference to the question whether any part of the existing Dearness Allowance should be absorbed in the Basic Pay.

5.371. The dearness allowance is meant for meeting a rise in the cost of living which is of a temporary character. The system of payment of dearness allowance was started during the II world war when the cost of living was rising rapidly. It was expected that it would fall when normal conditions were restored but all such expectations have failed to materialise. The First Central Pay Commission had thought that the prices had reached a high peak in January 1947 when the average all India index number was 285 (1939=100). It provided for a progressive decrease in the rate of dearness allowance as the cost of living index came down. The Dearness Allowance Committee (popularly known as 'Gadgil Committee') had anticipated that the cost of living index would not fall below the range of 265 to 284 (1939=100) and it made a recommendation for treating 50 per cent of the dearness allowance as pay for Central Government employees who were in receipt of pay not exceeding Rs. 750 per month for the purpose of retirement benefits, certain allowances etc. Subsequent events have proved that the Gadgil Committee was rather conservative in its estimate. The cost of living has increased to such an extent that at present the all India working class consumer price index number is 456 with base 1939=100.

5.372. As observed by the Sastry Tribunal, there are two principal methods of providing for dearness allowance. The first method is to fix flat rates or definite percentage of basic salary as dearness allowance varying if need be with the scale of salaries and with slabs. The second method is to link dearness allowance with the rise or fall of cost of living index figures. The first method suffers from two defects; (1) there is an element of arbitrariness in splitting up the appropriate salary into basic pay and dearness allowance, and (2) there is no provision for automatic adjustment of dearness allowance in relation to the rise or fall in the cost of living. The Sen Tribunal adopted 1944 as the base year and provided by way of dearness allowance for the increase in the cost of living over and above what it was in various places in 1944. Under the Sen scheme dearness allowance for any place was related to the cost of living index number of such place or the place nearest to it for which the Central Government published such figures. The then existing series of the cost of living index

figures for Bombay city, Ahmedabad, Sholapur, Jalgaon, Kanpur, Nagpur and Madras were to be appropriately reduced to the base of 1944. The Sen Tribunal's scheme of dearness allowance is given below:—

Amount of monthly pay	On every rise of 10 points in the cost of living index figure above the level of 1944 (Calculated to the nearest eight annas and the indices being converted to the base 1944=100).
Upto Rs. 50	9 3/8 per cent.
Thereafter upto Rs. 100	8 1/3 per cent.
Thereafter upto Rs. 150	7 1/2 per cent.
Thereafter upto Rs. 200	6 1/4 per cent.
Thereafter	5 per cent.

This scheme in its actual working revealed such great anomalies that both the banks and the workmen felt dissatisfied with it. The cost of living index numbers were not available for all the places where bank employees were working. Often the cost of living index number for the nearest place for which it was available, did not properly reflect the real cost of living of the place where the workmen worked. For the whole of Uttar Pradesh for instance the only index figure available was that for Kanpur. The Sastry Tribunal awarded the following rates of dearness allowance for A, B, C and D Class of banks in Areas I, II, III for clerical staff and subordinate staff.

(a) Clerical Staff.

Bank	Area	Rate	Minimum per month	Maximum per month
			Rs.	Rs.
A, B, C & D	I	33 1/3 per cent of pay	35	70
A, B, C & D	II	33 1/3 per cent of pay	30	60
A, B, C & D	III	33 1/3 per cent of pay	25	40

(b) Subordinate Staff.

Bank	Area I	Area II	Area III
A	Rs. 35 flat per month	Rs. 30 flat per month	Rs. 25 flat per month
B	Rs. 25 „ „ „	Rs. 22-8-0 „ „ „	Rs. 20 „ „ „
C	Rs. 15 „ „ „	Rs. 12 „ „ „	Rs. 10 „ „ „
D	Rs. 13 „ „ „	Rs. 12 „ „ „	Rs. 10 „ „ „

For the aforesaid purpose pay meant the aggregate of basic pay, special allowance and officiating allowance, if any.

In order to provide for an automatic adjustment of the rates of dearness allowance according to the variations in the cost of living in future, the Sastry Tribunal provided that if the average figure for each half year, i.e. from January

to June and from July to December, of each calendar year, should rise or fall by more than 10 points over 144 the dearness allowance for the succeeding half year should rise or fall by 7 1/2 per cent of the basic pay. For the purpose of calculating dearness allowance, the figure officially published in the Indian Labour Gazette was to be taken as the correct index figure.

5.373. The Labour Appellate Tribunal retained the framework of the above scheme of dearness allowance but altered the figures with a view to achieve a fair measure of neutralisation. The dearness allowance under the Labour Appellate Tribunal scheme was as follows:—

CLERKS

Dearness Allowance for A, B and C Class Banks.

	Minimum	Maximum
Area I Rs. 50/-	First slab of Rs. 100 50 per cent. Second slab of Rs. 100 40 per cent. Thereafter 35 per cent.	
Area II Rs. 45/-	First slab of Rs. 100 45 per cent. Second slab of Rs. 100 35 per cent. Thereafter 30 per cent.	
Area III Rs. 40/-	First slab of Rs. 100 40 per cent. Second slab of Rs. 100 30 per cent. Thereafter 25 per cent.	

Dearness allowance for D Class Banks

(Till 31-3-1959 and as for Class C banks thereafter).

	Rate	Minimum	Maximum
Area I	33 1/3 per cent.	Rs. 35	Rs. 70
Area II	33 1/3 per cent.	Rs. 30	Rs. 60
Area III	33 1/3 per cent.	Rs. 25	Rs. 40

Subordinate Staff.

	Area I	Area II	Area III
Class A Banks . .	Rs. 42-8-0	Rs. 40-0-0	Rs. 37-8-0
Class B Banks . .	Rs. 40-0-0	Rs. 37-8-0	Rs. 35-0-0
Class C Banks . .	Rs. 37-8-0	Rs. 35-0-0	Rs. 32-8-0
Class D Banks . .	Rs. 13-0-0	Rs. 12-0-0	Rs. 10-0-0

The dearness allowance rates for D Class banks were to remain in operation for five years from 1st April 1954 and thereafter the dearness allowance rates for C Class banks were to be applicable.

The dearness allowance adjustment formula of the Sastry Tribunal was retained without any modification.

5.374. By the Government modification order S.R.O. 2732, dated 24th August 1954 the dearness allowance awarded by the Labour Appellate Tribunal was modified and the Sastry scales of dearness allowance for A, B, C and D Class of banks were restored and it was provided that the dearness allowance rates in Areas III and IV were to be the same. As a result of the recommendations of the Bank Award Commission and the Travancore-Cochin Inquiry Commission and the legislative action taken for the implementation of those recommendations the dearness allowance rates of the Labour Appellate Tribunal in the A, B and C-1 Class banks were restored and in the rest, the dearness allowance rates under the Government modification order continued to remain in force. The Bank

Award Commission altered the form of the dearness allowance adjustment formula of the Labour Appellate Tribunal. The dearness allowance adjustment formula of the Bank Award Commission, which as a result of legislative action replaced the adjustment formula of the Labour Appellate Tribunal, is as follows:—

Clerical Staff

If the average of all-India cost of living index for the half year ending June or December of any year should rise or fall by more than 10 points as compared to 144 (1944=100) the dearness allowance for the succeeding half year will be raised or lowered by one-seventh of the dearness allowance admissible at the index level of 144 for each variation of 10 points.

Subordinate Staff

If the average all-India cost of living index for the half year ending June or December of any year should rise or fall by more than 10 points as compared to 144 (1944=100) the dearness allowance for the succeeding half year will be raised or lowered by one-tenth of the dearness allowance admissible at the index level of 144 for each variation of 10 points.

The rates of dearness allowance with the alterations mentioned above are still in force, but the adjustment formula of dearness allowance has undergone a slight change as a result of the Government notification S.O. 400, dated 13th February 1960.

5.375. The present scheme of dearness allowance in the banking industry, as a result of the Sastry Award and all further modifications, is as under:—

(a) Dearness Allowance Formula for Clerks.

In A, B and C-1 Class Banks.				In C-2 and D Class banks		
	Minimum	Maximum	Rate	Minimum	Maximum	Rate
Area I	Rs. 50/-	1st slab of Rs. 100	50%	Rs. 35/-	Rs. 70/-	33 1/3%
		2nd slab of Rs. 100	40%			
		Thereafter	35%			
Area II	Rs. 45/-	1st slab of Rs. 100	45%	Rs. 30/-	Rs. 60/-	33 1/3%
		2nd slab of Rs. 100	35%			
		Thereafter	30%			
Area III	Rs. 40/-	1st slab of Rs. 100	40%	Rs. 25/-	Rs. 40/-	33 1/3%
		2nd slab of Rs. 100	30%			
		Thereafter	25%			
Area IV	Rs. 25/-	33-1/3% of pay (basic pay, special allowance and officiating allowance) with a maximum of Rs. 40/-		Rs. 25/-	Rs. 40/-	33 1/3%

(b) Dearness Allowance Formula for Subordinates.

	Area I	Area II	Area III	Area IV
	Rs.	Rs.	Rs.	Rs.
A Class Banks	42/50	40/-	37/50	25/-
B Class Banks	40/-	37/50	35/-	20/-
C-1 Class Banks	37/50	35/-	32/50	10/-
C-2 Class Banks	15/-	12/-	10/-	10/-
D Class Banks	13/-	12/-	10/-	10/-

5.376. The Dearness Allowance Adjustment Formula, which is now in force according to Government notification No. S.O. 400, dated 13th February 1960

issued in exercise of the powers conferred by sub-section (5) of section 3 of the Industrial Disputes (Banking Companies) Decision Act, 1955 (41 of 1955) in lieu of the 'adjustment' formula of the dearness allowance recommended by the Bank Award Commission, is as under:—

"If the average all-India cost of living index for any quarter after the 31st March, 1959 should rise or fall by more than five points as compared to 144 (1944=100), the dearness allowance payable for the succeeding quarter shall be raised or lowered, in the case of clerical staff by one-fourteenth, and in the case of subordinate staff by one-twentieth, of the dearness allowance admissible at the index level of 144 for each variation of five points.

*Explanation:—*In this notification "quarter" means the period of three months ending on the last day of March, June, September or December."

5.377. It is not possible to find out the extent of neutralisation which was sought to be given as neither the Sastry Tribunal nor the Labour Appellate Tribunal has given any indication about it.

5.378. The All India Bank Employees Association has claimed that the base year should be the year 1956 when the all India working class consumer price index in the series 1949=100 was 105 and that dearness allowance should be paid to the employees at the rate of 1 per cent of the basic pay for every rise of one point over 105. The All India Bank Employees Federation has made a demand as follows:—

"The existing dearness allowance should be revised to 75 per cent with a minimum of Rs. 60 for all the employees and 75 per cent of the dearness allowance should be merged with the basic salaries and the remaining dearness allowance should be linked with the appropriate cost of living index figures and the upward and downward revision in the dearness allowance should be on the variation of every two points."

The All India State Bank of India Staff Federation has claimed that the employees are entitled to full neutralisation and that dearness allowance should be paid on the basis of such full neutralisation for every rise of one point above 100 with base 1949=100. The State Bank of India Employees' Association (Bengal Circle) and the State Bank of India Employees' Association (Delhi Circle) have claimed that the all-India cost of living index should be taken as the basis for calculation of the dearness allowance and that the dearness allowance should be paid at the rate of 1 1/2 per cent of pay for every rise of 5 points over the cost of living index figure 360 (1939=100). The State Bank of India Staff Union, Andhra Pradesh, Vijayawada, claims that the basic pay of an employee should be fixed at the cost of living index of 360 (1939=100) and that for every rise of index by a point the rate of dearness allowance should be Re. 0.35. The All India Bank of Baroda Employees' Federation has claimed that any rise above the all-India consumer price index number of 105, base 1949=100, should be compensated by an additional payment of dearness allowance "at the rate of 1 1/2 per cent made up of pay, special allowance and officiating allowance for every rise of five points". The Indian Overseas Bank Employees Union, Madras has claimed dearness allowance "at the rate of 2 per cent of pay for every rise of points over the cost of living index figure 144 (1944=100)". The State Bank of Patiala (All Cadres) Employees Association has claimed that dearness allowance be paid to the supervisory staff, clerical staff and the subordinate staff at the following rates:—

Supervisory and Clerical Staff.

Upto Rs. 100	. . . . .	75 per cent (with a minimum of Rs. 75).
From Rs. 101 to Rs. 200	. . . . .	50 per cent (i.e., Rs. 75/- plus Rs. 50 =Rs. 125) and so on.
From Rs. 201 to Rs. 300	. . . . .	40 per cent.
From Rs. 301 and above	. . . . .	30 per cent.

Subordinate Staff.

Upto Rs. 100	. . . . .	75 per cent with minimum of Rs. 60.
Over Rs. 100	. . . . .	50 per cent.

The Association has further claimed that in view of the continuous rise in the cost of living index, the entire amount of dearness allowance payable to an employee should be merged into his basic pay.

5.379. The Cochin Commercial Bank Employees Association has demanded the following dearness allowance:—

- “(a) (1) Officers 50 per cent of the basic pay with a minimum of Rs. 50/- and maximum of Rs. 90/-.
- (2) Clerical Staff 50 per cent of the basic pay with a minimum of Rs. 40/- and maximum of Rs. 80/-.
- (3) Subordinate Staff 80 per cent of the basic with minimum of Rs. 35/- and maximum of Rs. 45/-.

(b) Adjustment of Dearness Allowance.

If the average of the all-India cost of living index for the quarter ending March, June, September or December of any year should rise or fall by more than 5 points as compared to 144 (1944=100), the dearness allowance for the succeeding quarter of the year should be raised or lowered as under:—

For officers, clerical and subordinate staff by 1/7th of the dearness allowance admissible at the index level of 1944 (1944=100) for each variation of 5 points.

(c) Absorption of 50 per cent of the dearness allowance to the basic pay favoured.”

The Allahabad Bank Employees Union (Calcutta) and the South Gujarat Bank of Baroda Employees Union (Surat) have demanded that dearness allowance should be paid at the rate of $1\frac{1}{2}$ per cent of pay on every rise of 5 points over the cost of living index figure 360 (1939=100). The Bihar Provincial Central Bank of India Employees Association (Muzaffarpur), the Central Bank of India Employees Association at Patna, Amritsar and Muzaffarpur have demanded a dearness allowance of “75 per cent with a minimum of Rs. 60 to all the various categories”. The Central Bank of India Employees’ Association at Patna claims that 50 per cent of the dearness allowance should be merged with basic pay. The Employees Association of the Union Bank of Bijnapur and Sholapur, has made the same demands for dearness allowance as the All India Bank Employees Association.

5.380. The banks have opposed these demands and want that the present scheme of dearness allowance should be allowed to continue except for slight modification of the adjustment formula for the facility of calculation.

5.381. The Indian Banks Association has claimed that wherever the dearness allowance is linked with the cost of living index figure, it should be calculated not on the basis of the immediate previous quarter but on the figure available for the quarter preceding the last quarter so that numerous calculations and re-calculations may be avoided. The Exchange Banks Association has pleaded that “it would be convenient to take the all-India consumer price index number (1949=100) as published in the Indian Labour Journal for any of the quarters ending March, June, September and December of any year for adjustment relating to the succeeding quarters ending September, December, March and June, respectively”. The State Bank of India has pleaded that if there is a fall in the purchasing power of the rupee, such fall is common to the entire nation and to every member of the community, and it is wrong in principle and in equity that only a section of the community, to with the bank employees, should seek relief which must ultimately be at the cost of the entire community and lead to still further inflation.

5.382. Shri Phadke, the learned counsel on behalf of the Indian Banks Association, has urged that the third item of reference relates to “dearness allowance with particular Reference to the question whether any part of the existing dearness allowance should be absorbed in the basic pay”, that having regard to the terms of Reference, it is not open to me to disturb the existing scheme of the dearness allowance and that I have only to consider whether any part of the existing dearness allowance should be absorbed in the basic pay. There is no merit in this contention. Item 3 of the reference provides for adjudication of the dispute in connection with dearness allowance. The mere particularisation of the question relating to the merger of the existing dearness allowance does not limit the scope of the dispute relating to dearness allowance. Apart from any

other consideration, if it is ultimately found that a large part of the dearness allowance should be absorbed in the basic pay, then the existing scheme of dearness allowance cannot possibly survive. In my view, it is within the jurisdiction of this Tribunal to prescribe a new scheme of dearness allowance after absorbing a part of the existing dearness allowance in the basic pay.

5.383. I have already provided scales of pay with the year 1949 as the base year. These scales of pay are much higher than the previous scales and a considerable part of the existing dearness allowance has been merged in the basic pay. I have now only to consider what should be the dearness allowance taking into account the wage scales provided by me.

5.384. The present scheme of dearness allowance in the banking industry has been regarded as 'cumbersome' by the workmen. The scheme of dearness allowance for subordinate staff is different from the scheme of dearness allowance for the clerical staff. The adjustment formula for increase or decrease in the dearness allowance is fixed in relation to the all-India cost of living index figure 144 in the series 1944=100. Difficulties have been experienced in the calculation of the amount of the dearness allowance in view of the non-availability of final index figures for a quarter for a considerably long time with the result that provisional payments have to be made which have to be subsequently re-adjusted.

5.385. The present system of dearness allowance has to be changed in any event in view of the absorption of a large part of the existing dearness allowance in the basic pay. The basic pay has been fixed by me with reference to the base year 1949 for which the all-India working class consumer price index number was 100. The question that I have to consider relates to the extent of neutralisation that should be given when the cost of living changes in the case of the lowest categories of employees in banks, namely, the subordinate staff, and in the case of higher categories of employees, namely workmen other than those belonging to the subordinate staff.

5.386. The Sastry Tribunal has not indicated the extent of neutralisation which it had given. The Labour Appellate Tribunal has stated that it had altered the figures of dearness allowance provided by the Sastry Tribunal with a view to achieve a fair measure of neutralisation but has not stated what in its opinion constituted a fair measure of neutralisation.

5.387. The first Central Pay Commission thought that the employees who 'live on the marginal level in normal times' should get the benefit of full neutralisation, and that higher categories of employees should receive a diminishing but graduated scale of dearness allowance.

5.388. The Committee on Fair Wages in its report has observed that the evidence received by it was unanimous only on one point viz., that adjustment should be based on the current cost of living index numbers in the areas concerned. It has further stated that as regards the extent of compensation there was a difference of opinion between employers and employees. The former suggested neutralisation to the extent of 75 to 80 per cent of the increase in the cost of living and the application of a flat rate for all categories. The latter pressed for 100 per cent compensation for the lower categories though they would raise no objection to a flat rate allowance. The committee finally came to the conclusion that for the lowest categories of employees the target should obviously be compensation to the extent of 100 per cent of the increase in the cost of living and that a lower rate of compensation should apply to higher categories but that the amount of compensation must be based on salary scale or slabs.

5.389. The Central Wage Board for the cement industry in its report given in 1959 has provided for 100 per cent neutralisation for the lowest categories of wage earners and linked the dearness allowance fixed by it to the all-India working class consumer price index number with base year 1949. The Second Pay Commission in its report at page 96 has observed as follows:—

"In India itself, sliding scale arrangements, providing generally for a neutralisation of 70 to 90 per cent—and in the case of the textile industry at its main centres, 100 per cent—exist in many organised industries. The arrangement generally tend to reduce the time lag which might otherwise occur between rise in the price level and increase of wages; they reduce the possibilities of industrial conflicts, and interruption of production, by providing for a simple, orderly, and more or less, mechanical adjustment; and they give a sense of security to the workers as regards their real wages. On the other hand, they

may set up or accelerate a wage-price spiral with various harmful economic and social consequences."

5.390. As regards members of the subordinate staff, in order that their standard of living may not deteriorate and any hardship caused on account of the rise in the cost of living may be avoided, it is necessary that they should be insulated against shocks of rise in the prices of essential commodities. The scales of pay of members of the subordinate staff employed by banks in the Excepted List are very low. The larger banks have enough capacity to bear the burden of increase in wages consequent on the rise in the cost of living. Banks by and large can better stand the burden of the increase in wages consequent on the rise in the cost of living than the employees in the lowest grade can bear the loss consequent on the reduction in their purchasing power. Taking all circumstances into consideration, including the circumstance that in the past full neutralisation has not been given, I consider it fair that as regards the members of the subordinate staff there should be 100 per cent neutralisation linked with the all-India working class consumer price index number, base 1949=100. In the case of workmen, other than those belonging to the subordinate staff, keeping in view the trends in organised industries, I provide a lesser rate of neutralisation and fix it at 75 per cent similarly linked. In arriving at the scales of wages with 1949 as the base year from the total remuneration consisting of basic wage and dearness allowance which I intended to give, I have used the aforesaid percentages.

5.391. I have next to consider the question when changes should take place in the amount of dearness allowance. If the dearness allowance is to be increased with every rise of one point in the index figure in the series 1949=100, it will similarly have to be decreased on every fall of 1 point with the result that there will be frequent changes in the total remuneration received by workmen. It is desirable that the pay packet of workmen should not fluctuate too often. I accordingly direct that in the case of the clerical staff, the dearness allowance should be calculated and paid at the rate of three per cent of the pay (i.e. basic pay provided under this award, special allowance, if any, and officiating allowance, if any, payable under this award) for every rise of four points above 100 in the quarterly average of the all-India average working class consumer price index (general), base 1949=100, and in the case of the subordinate staff, the dearness allowance should be calculated and paid at the rate of four per cent of the pay (i.e. basic pay provided under this award, special allowance, if any, and officiating allowance, if any, payable under this award) for every rise of four points above 100 in the quarterly average of the all-India average working class consumer price index (general) base 1949=100. For this purpose 'quarter' will mean the period of three months ending on the last day of March, June, September or December. The final index figures as published in the Indian Labour Journal should be the index figures which should be taken for the purposes of calculation of dearness allowance. For the purpose of calculating the dearness allowance for any particular month, the quarterly average for the last quarter for which final index figures are available on the 15th day of that month should be taken. If the dearness allowance for the month of December has to be calculated, the quarterly average for the last quarter for which final index figures are available on the 15th of December should be taken.

5.392. I have provided that the index figures as published in the Indian Labour Journal should be the figures which are to be taken for the purpose of calculation of the dearness allowance. I have to do so in the absence of any earlier official publication of these index figures. I am informed that these index figures are sometimes ready many days before the date of the publication of the particular issue of the Indian Labour Journal, in which they appear. If that be so it would be in the public interest if the all-India consumer price index numbers are published in the Gazette of India as soon as they are ready. In the event of the final all-India working class consumer price index numbers being officially published before they appear in the Indian Labour Journal, I direct that the figures so officially published should be the figures which should be taken for the purpose of calculation of the dearness allowance instead of such figures when they appear in the Indian Labour Journal.

5.393. It is not necessary for me to deal individually with every demand made. Having taken into consideration all the demands made in connection with this item of reference, I have given my award in connection therewith.

5.394. A table showing the dearness allowance payable to the bank employees at the various points of the all-India working class consumer price index number, base 1949=100 is given for the convenience of the parties.

Table for calculation of Dearness Allowance for workmen other than those belonging to the Subordinate Staff

Dearness Allowance @ 3 per cent for every change of 4 points in the quarterly average of the All India Average Consumer Price Index (General) (Base 1949=100).

Dearness Allowance admissible if the appropriate quarterly average of the index is—

Basic salary	Less than 104	104 or more but less than 108	108 or more but less than 112	112 or more but less than 116	116 or more but less than 120	120 or more but less than 124	124 or more but less than 128	128 or more but less than 132	132 or more but less than 136	136 or more but less than 140	140 or more but less than 144	144 or more but less than 148	148 or more but less than 152	152 or more but less than 156
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
1	Nil	0·03	0·06	0·09	0·12	0·15	0·18	0·21	0·24	0·27	0·30	0·33	0·36	0·39
2	Nil	0·06	0·12	0·18	0·24	0·30	0·36	0·42	0·48	0·54	0·60	0·66	0·72	0·78
3	Nil	0·09	0·18	0·27	0·36	0·45	0·54	0·63	0·72	0·81	0·90	0·99	1·08	1·17
4	Nil	0·12	0·24	0·36	0·48	0·60	0·72	0·84	0·96	1·08	1·20	1·32	1·44	1·56
5	Nil	0·15	0·30	0·54	0·60	0·75	0·90	1·05	1·20	1·35	1·50	1·65	1·80	1·95
6	Nil	0·18	0·36	0·54	0·72	0·90	1·08	1·26	1·44	1·62	1·80	1·98	2·16	2·34
7	Nil	0·21	0·42	0·63	0·84	1·05	1·26	1·47	1·68	1·89	2·10	2·31	2·52	2·73
8	Nil	0·24	0·48	0·72	0·96	1·20	1·44	1·68	1·92	2·16	2·40	2·64	2·88	3·12
9	Nil	0·27	0·54	0·81	1·08	1·35	1·62	1·89	2·16	2·43	2·70	2·97	3·24	3·51
10	Nil	0·30	0·60	0·90	1·20	1·50	1·80	2·10	2·40	2·70	3·00	3·30	3·60	3·90
20	Nil	0·60	1·20	1·80	2·40	3·00	3·60	4·20	4·80	5·40	6·00	6·60	7·20	7·80
30	Nil	0·90	1·80	2·70	3·60	4·50	5·40	6·30	7·20	8·10	9·00	9·90	10·80	11·70
40	Nil	1·20	2·40	3·60	4·80	6·00	7·20	8·40	9·60	10·80	12·00	13·20	14·40	15·60

50	.	.	.	Nil	1.50	3.00	4.50	6.00	7.50	9.00	10.50	12.00	13.50	15.00	16.50	18.00	19.50
60	.	.	.	Nil	1.80	3.60	5.40	7.20	9.00	10.80	12.60	14.40	16.20	18.00	19.80	21.60	23.40
70	.	.	.	Nil	2.10	4.20	6.30	8.40	10.50	12.60	14.70	16.80	18.90	21.00	23.10	25.20	27.30
80	.	.	.	Nil	2.40	4.80	7.20	9.60	12.00	14.40	16.80	19.20	21.60	24.00	26.40	28.80	31.20
90	.	.	.	Nil	2.70	5.40	8.10	10.80	13.50	16.20	18.90	21.60	24.30	27.00	29.70	32.40	35.10
100	.	.	.	Nil	3.00	6.00	9.00	12.00	15.00	18.00	21.00	24.00	27.00	30.00	33.00	36.00	39.00
200	.	.	.	Nil	6.00	12.00	18.00	24.00	30.00	36.00	42.00	48.00	54.00	60.00	66.00	72.00	78.00
300	.	.	.	Nil	9.00	18.00	27.00	36.00	45.00	54.00	63.00	72.00	81.00	90.00	99.00	108.00	117.00
400	.	.	.	Nil	12.00	24.00	36.00	48.00	60.00	72.00	84.00	96.00	108.00	120.00	132.00	144.00	156.00

Table for calculation of Dearness Allowance for Subordinate Staff.

Subordinate Staff—Dearness Allowance @ 4 per cent for every change of 4 points in the quarterly average of the All India Average Consumers Price Index (General) (Base 1949=100)

Dearness allowance admissible if the appropriate quarterly average of the index is—

Basic Salary	Less than 104	104 or more but less than 108	108 or more but less than 112	112 or more but less than 116	116 or more but less than 120	120 or more but less than 124	124 or more but less than 128	128 or more but less than 132	132 or more but less than 136	136 or more but less than 140	140 or more but less than 144	144 or more but less than 148	148 or more but less than 152	152 or more but less than 156
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
1 . . .	Nil	0.04	0.08	0.12	0.16	0.20	0.24	0.28	0.32	0.36	0.40	0.44	0.48	0.52
2 . . .	Nil	0.08	0.16	0.24	0.32	0.40	0.48	0.56	0.64	0.72	0.80	0.88	0.96	1.04
3 . . .	Nil	0.12	0.24	0.36	0.48	0.60	0.72	0.84	0.96	1.08	1.20	1.32	1.44	1.56
4 . . .	Nil	0.16	0.32	0.48	0.64	0.80	0.96	1.12	1.28	1.44	1.60	1.76	1.92	2.08
5 . . .	Nil	0.20	0.40	0.60	0.80	1.00	1.20	1.40	1.60	1.80	2.00	2.20	2.40	2.60
6 . . .	Nil	0.24	0.48	0.72	0.96	1.20	1.44	1.68	1.92	2.16	2.40	2.64	2.88	3.12
7 . . .	Nil	0.28	0.56	0.84	1.12	1.40	1.68	1.96	2.24	2.52	2.80	3.08	3.36	3.64
8 . . .	Nil	0.32	0.64	0.96	1.28	1.60	1.92	2.24	2.56	2.88	3.20	3.52	3.84	4.16
9 . . .	Nil	0.36	0.72	1.08	1.44	1.80	2.16	2.52	2.88	3.24	3.60	3.96	4.32	4.68
10 . . .	Nil	0.40	0.80	1.20	1.60	2.00	2.40	2.80	3.20	3.60	4.00	4.40	4.80	5.20
20 . . .	Nil	0.80	1.60	2.40	3.20	4.00	4.80	5.60	6.40	7.20	8.00	8.80	9.60	10.40
30 . . .	Nil	1.20	2.40	3.60	4.80	6.00	7.20	8.40	9.60	10.80	12.00	13.20	14.40	15.60

40	.	.	.	Nil	1.60	3.20	4.80	6.40	8.00	9.60	11.20	12.80	14.40	16.00	17.60	19.20	20.80
50	.	.	.	Nil	2.00	4.00	6.00	8.00	10.00	12.00	14.00	16.00	18.00	20.00	22.00	24.00	26.00
60	.	.	.	Nil	2.40	4.80	7.20	9.60	12.00	14.40	16.80	19.20	21.60	24.00	26.40	28.80	31.20
70	.	.	.	Nil	2.80	5.60	8.40	11.20	14.00	16.80	19.60	22.40	25.20	28.00	30.80	33.60	36.40
80	.	.	.	Nil	3.20	6.40	9.60	12.80	16.00	19.20	22.40	25.60	28.80	32.00	35.20	38.40	41.60
90	.	.	.	Nil	3.60	7.20	10.80	14.40	18.00	21.60	25.20	28.80	32.40	36.00	39.60	43.20	46.80
100	.	.	.	Nil	4.00	8.00	12.00	16.00	20.00	24.00	28.00	32.00	36.00	40.00	44.00	48.00	52.00
110	.	.	.	Nil	4.40	8.80	13.20	17.60	22.00	26.40	30.80	35.20	39.60	44.00	48.40	52.80	57.20
120	.	.	.	Nil	4.80	9.60	14.40	19.20	24.00	28.80	33.60	38.40	43.20	48.00	52.80	57.60	62.40
130	.	.	.	Nil	5.20	10.40	15.60	20.80	26.00	31.20	36.40	41.60	46.80	52.00	57.20	62.40	67.60
140	.	.	.	Nil	5.60	11.20	16.80	22.40	28.00	33.60	39.20	44.80	50.40	56.00	61.60	67.20	72.80
150	.	.	.	Nil	6.00	12.00	18.00	24.00	30.00	36.00	42.00	48.00	54.00	60.00	66.00	72.00	78.00

CHAPTER VI

ITEM No. 4.—HOUSE RENT AND OTHER ALLOWANCES, INCLUDING TRAVELLING AND HALTING ALLOWANCES AND LEAVE FARE CONCESSIONS

(i) House rent Allowance

6.1. The Sastry Tribunal in dealing with the question of house rent allowance has observed that the house rent allowance constituted really an item to be taken into account in fixing the wage scale. It further observed that normally it would be included in calculating the cost of living, but there were big cities in the country where housing accommodation was scarce and rents were normally high notwithstanding the Rent Restriction Acts which were in force. It felt the necessity of considering these special cases and providing for a house rent allowance. The Sastry Tribunal laid down that house rent allowance should be given monthly to all whole-time workmen on the following scale:—

	Calcutta and Bombay	Other places with population over 7 lakhs.
(a) Where pay does not exceed Rs. 100 per month.	Rs. 8	Rs. 6
(b) Where pay exceeds Rs. 100 but not Rs. 200 per month	Rs. 12	Rs. 9
(c) Where pay exceeds Rs. 200 per month	Rs. 16	Rs. 12

It further laid down that the expression "Pay" in this connection included basic pay, special allowance and officiating allowance. The Sastry Tribunal in dealing with the question of free accommodation provided by some banks especially to the employees of the subordinate cadre, some of whom had been allowed to sleep on the bank's premises laid down that such concessions or amenities which were voluntarily granted by the banks should not be taken as conferring a right on the workmen. It observed that this amenity also served as a kind of arrangement for the safety of the premises and the property of the banks. It provided that even where such amenities were given, the house rent allowance also must be given as "the employees must have facilities for housing their families at the places of their employment". It, however, laid down that no house rent allowance would be admissible where residential quarters were provided and made available by the bank. The Sastry Tribunal further provided that the house rent allowance must be given during leave period also, provided that the duration of the leave did not exceed four months and prior to availing himself of leave the workmen had furnished a certificate that he continued to retain the residential accommodation occupied by him and that where the leave taken exceeded four months, house rent allowance might cease at the bank's discretion after the period of four months was over.

6.2. The Labour Appellate Tribunal modified the directions given by the Sastry Tribunal, in so far as the Sastry Tribunal provided a limitation on the duration of the leave during which house rent allowance was admissible, by laying down that the employee on leave should continue to get the house rent allowance even after the period of four months mentioned in the Sastry Award had expired, provided the employee satisfied the bank that he had retained the residential accommodation and was actually paying rent for it.

6.3. The All India Bank Employees Association has alleged that the amount of house rent taken into consideration while computing the pay structure was a token amount having no relation to realities, and claimed that a compensatory "House Rent and Local Allowance" should be paid to the employees working at costlier places on the following basis:—

Areas with population of 1 lakh and over	7 1/2% pay minimum Rs. 10/-
Areas with population of 5 lakhs and over but below 10 lakhs	10% of pay minimum Rs. 15/-
Areas with population of 10 lakhs and over	15% of pay minimum Rs. 20/-
State Capitals and Project areas having population less than 10 lakhs	10% of pay minimum Rs. 15/-

It has further claimed that this allowance should be admissible to all categories of employees with a maximum of Rs. 50, that for the purpose of this allowance, the latest municipal population figures of a particular place should be taken as the basis and should include suburbs and industrial areas and that the allowance at the same rate should also be payable to the employees working in offices in the suburbs and industrial areas. It has further claimed that there should not be any deduction of house rent allowance whatsoever during the period of leave of an employee. A similar demand has been made by the State Bank of India Staff Union, Andhra Pradesh Vijavawada and the All India Bank of Baroda Employees Federation.

6.4. The All India Bank Employees Federation has submitted that the problem of housing in almost all the centres had become more acute than what it was at the time of the Sastry Award on account of the influx of population in commercial and industrial centres in India, that there was a substantial increase in rent of the houses on account of shortage of accommodation, that the house rent allowance awarded by the Sastry Tribunal was restricted only to those places where the population was above 7 lacs and that it was the general experience of all that even in places with population less than 7 lacs there has been a considerable increase in the house rent. The Federation, therefore, submitted that the employees should either be provided with suitable free accommodation or they should be allowed house allowance as under:—

<i>For Cities with population</i>	<i>Supervisory Staff</i>	<i>Clerks</i>	<i>Subordinate Staff</i>
(i) Below 5 lacs	10% with a minimum of Rs. 20/-	Rs. 15	Rs. 10
(ii) 5 lacs to 10 lacs	15% with a minimum of Rs. 30/-	Rs. 20/-	Rs. 15/-
(iii) 10 lacs and above	25% of the basic pay	25% of the basic pay.	25% of the basic pay.

6.5 The All India State Bank of India Staff Federation has made a demand in this connection which is similar to the demand made by the All India Bank Employees Association, with this change that to the project areas and State capitals it has added hill stations and proprietary towns having population of less than 10 lacs.

6.6. The Vadroda Rajya Bank Nekar Sangh has submitted that "employees" should be provided with suitable free accommodation and they should be allowed allowance as mentioned below:—

"Every employee should be paid house rent allowance at the rate of 20 per cent of his monthly salary with a minimum of Rs. 25."

6.7. The Indian Overseas Bank Employees Union has demanded the house rent allowance as under:—

Subordinate Staff.

For cities with population of above 5 lacs	Rs. 15 flat.
of above 1 lac but below 5 lacs	Rs. 10/- flat.

Clerical, Cash Department and Supervisory Staff.

For cities with population of above 5 lacs	20% of basic pay with a minimum of Rs. 45/-.
of above 1 lac but below 5 lacs	10% of basic pay with a minimum of Rs. 30/-

6.8. The Employees Association of Union Bank of Bijapur and Sholapur has stated as under:—

"While computing our basic pay the amount of house rent has not been taken into consideration. A compensatory house rent and local allowance should be paid to the employees at the rate of 15 per cent of the basic pay or Rs. 20 whichever is more."

6.9. The Bihar Provincial Central Bank of India Employees Association has stated that the banks should provide suitable free furnished quarters to all the employees or pay house rent allowance as under:—

"For Cities with population.	Supervisory Staff.	Clerks	Subordinate Staff
(i) Below 5 lacs	10% with minimum Rs. 20	Rs. 15/-	Rs. 10/-
(ii) 5 lacs to 10 lacs	15% with minimum Rs. 30	Rs. 20/-	Rs. 15/-
(iii) Above 10 lacs	A further City Compensatory Allowance at the rate of 10% of the basic pay."		

The South Gujarat Bank of Baroda Employees Union has submitted that the rents in cosmopolitan as well as mofussil cities were exorbitant and it would not be improper if the employees were granted compensatory house rent and local allowance in areas having a population of one lac and over at the rate of 7 1/2 per cent of the total emoluments with a minimum of Rs. 10 per month; and in areas having a population of 5 lacs and over but below 10 lacs (including State capitals and project areas) at the rate of 10 per cent of the total emoluments with a minimum of Rs. 15 per month.

6.10. The State Bank of India Employees Association (Bengal Circle) has demanded compensatory house rent and local allowance at the rates following:—

For Clerical and Subordinate Staff.

Areas below 1 lac	7 1/2% minimum Rs. 10 per month.
Areas over 1 lac and below 10 lacs (including State Capitals and Project areas)	10% minimum Rs. 15/- per month.
Areas of 10 lacs and over	15% minimum Rs. 20/- per month.

6.11. The Indian Banks Association has submitted that the house rent allowance at present payable under the Sastry Award as modified should be left undisturbed. It has stated that while fixing the basic pay of an employee house rent has always been taken into consideration as an item and has submitted that there was no case whatever for paying compensatory house rent or local allowance. It has stated that under the Sastry Award the banks have been directed to pay house rent allowance during leave period also, provided the duration of the leave did not exceed four months. A complaint is made that no directions are given regarding the kind or nature of leave contemplated which gave rise to difficulties. It has submitted that where an employee was on leave without pay he should not be entitled to house rent allowance. It is pointed out that under paragraph 489 of the Sastry Award, no pay and allowances were admissible during the period of extraordinary leave and it is submitted that in order to harmonise the aforesaid two provisions, the Tribunal may direct that no house rent allowance would be payable to an employee during extraordinary leave or leave without pay.

6.12. The Bombay Exchange Banks Association has pleaded that no case existed for payment of compensatory or house rent allowance over and above what was being paid under the Sastry Award as modified. Attention was invited to paragraph 158 of the Sastry Award and it was stated that the element of house rent was included in basic wages and any rise was covered by dearness allowance. The Bombay Exchange Banks Association further submitted that no principle had been adduced in support of the demand and in any event the population basis suggested by the workmen, was wrong and unjustified. It has submitted that the demand should be rejected.

6.13. The State Bank of India has pleaded that under the Sastry Award, house rent allowance was paid to workmen in larger cities and there was no basis or justification for the demand made.

6.14. The Jaya Laxmi Bank Ltd. has pleaded that house rent allowance should not be made compulsory in areas with a population of less than 5 lacs.

6.15. The Gadodia Bank Ltd. has stated that the *status quo* should be maintained.

6.16. In the course of the hearing, it was argued on behalf of the employees that there was scarcity of housing accommodation, that rents had gone up extremely high, that the cost of raw material and building material had gone up and, therefore, there was a necessity for raising the house rent. It was also stated that wherever new houses were constructed, the rents were fantastic.

6.17. Generally speaking, house rent is one of the items taken into account in the fixation of wage scales. The element of house rent taken into account for the purpose of fixing wage scales does not take into account the requirements in connection with housing in specially expensive places. Those working in specially expensive places are generally intended to be compensated by a special house rent allowance. In places like Bombay, Calcutta and Delhi (including New Delhi) where the housing problem is acute, house rents are very high. These three places cannot be treated on par with other cities in the country. So far as Bombay and Calcutta are concerned, Tribunals in the past have thought it fit to compensate the employees in these cities with a compensatory house rent allowance. As regards the city of Delhi (including New Delhi) in recognition of the fact that house rents were high, Government has by an order classified Delhi as an 'A Class' city for the purpose of house rent and compensatory allowance for Central Government employees.

6.18. The housing problem in other cities with a population over 7 lacs is less acute than in Bombay, Calcutta and Delhi but is by and large more acute than in other cities and towns, and needs to be provided for by the grant of a house rent allowance. Some provision is also required to be made for State capitals not included in the aforesaid places and places included in Area I which are not otherwise provided for by reason of the growing demand for housing.

6.19. A demand has been made for a special house rent allowance for places with a population of 1 lac and over. The wage scales have been fixed having regard to the areawise division of places in the country. Under this award Area II comprises all places with a population of 1 lac and more other than those specified as falling in Area I. The wage scales fixed for Area II take into account the general requirement in connection with housing accommodation in that Area and it is not necessary to specially provide for all these places once again by a special house rent allowance.

6.20. The present house rent allowance generally drawn by the members of the subordinate staff in Bombay and Calcutta is Rs. 8 and at other places with a population of 7 lacs and above is Rs. 6. Members of the clerical staff whose basic pay, special allowances and officiating allowance under the Sastry Award does not exceed Rs. 100 per month also get the same amount by way of house rent allowance. The needs of the clerical staff in this connection cannot be considered to be the same as the needs of the members of the subordinate staff.

6.21. In my view, having regard to the increase in population in all cities with a population of 7 lacs and above and in particular in Bombay, Calcutta and Delhi and the consequent shortage of housing accommodation, it is necessary to increase the amount of house rent allowance provided under the Sastry Award.

6.22. The scales of pay provided by me include a considerable part of the dearness allowance that was being given under the Sastry Award. A member of the clerical staff employed by an A class bank in Area I whose basic pay under the Sastry Award was Rs. 100 will under this award get a basic pay of Rs. 155 and one whose basic pay under the Sastry Award was Rs. 200 will now get a basic pay of Rs. 293. Having carefully considered the whole matter, I award that all wholtime workmen excluding members of the subordinate staff should be given house rent allowance on the following scale:—

	At Bombay, Calcutta and Delhi	At other places with a population over 7 lacs, other State capitals and other places in Area I.
	Rs.	Rs.
Where pay does not exceed Rs. 150 per month	12	9
Where pay exceeds Rs. 150 but does not exceed Rs. 300 per month	16	12
Where pay exceeds Rs. 300 per month	20	15

The expression "pay" for this purpose will mean basic pay and will include special allowance and officiating allowance.

6.23. The house rent allowance payable to all members of the subordinate staff will be Rs. 9 at Bombay, Calcutta and Delhi and will be Rs. 7 at other places with a population of over 7 lacs and other State capitals and other places in Area I. Under the provisions contained in the Sastry Award as modified, drivers, electricians and head messengers employed by A Class banks in Area I were entitled in the 25th and subsequent years of their service to receive Rs. 12 by way of house rent allowance at Bombay and Calcutta and Rs. 9 by way of house rent allowance at other places falling within Area I by reason of their basic pay and special allowance exceeding Rs. 100. I direct that drivers, electricians and head messengers employed in A Class banks in Area I will receive in the 25th and subsequent years of their service by way of further house rent allowance Rs. 4 at Bombay, Calcutta and Delhi and Rs. 3 at other places falling within Area I under this award.

6.24. For the purpose of house rent allowance payable to workmen the expression "Bombay" will include Greater Bombay; the expression "Calcutta" will include Howrah, Barrackpore, Behala, Alipore, Cossipur, Garden Reach, Baranagore, Tallygunge, South Suburban Municipal Area and Dum Dum and the expression "Delhi" will include Old and New Delhi and Delhi Shahadara.

6.25. Where employees occupy residential quarters provided by the bank they will not be entitled to any house rent allowance.

6.26. Where an employee is on leave of any kind without pay, he will not be entitled to draw any house rent allowance. Where an employee is on leave other than leave of any kind without pay, he will be entitled to be paid house rent allowance provided he satisfies the bank that he has continued to retain the residential accommodation occupied by him. In cases where separate residential quarters are not provided by the bank, but an employee is allowed to sleep on the bank's premises he will be entitled to receive house rent allowance.

6.27. For the purpose of considering the population of a city or other place the latest available census figures alone should be considered. Where however census has been held and provisional official figures are available, but the final official figures have not been published, the provisional official figures should be considered for the purpose of calculating the population until the final official figures are published.

(ii) Other Allowances

Washing Allowance

6.28. The Sastry Tribunal has provided that the banks should undertake the responsibility of getting the uniforms of the members of the subordinate staff washed and where it was not possible to do so it has provided for a washing allowance at the rate of Rs. 2 per month in Area I, Rs. 1-8-0 per month in Area II and Re. 1 per month in Area III. The All India Bank Employees Association has claimed a sum of Rs. 3 per month by way of washing allowance if no arrangement for washing of the uniforms is made by the banks. The All India Bank Employees Federation has claimed that the banks should make satisfactory arrangements for getting the uniforms of the subordinate staff washed or in lieu thereof, a washing allowance of Rs. 3 per month should be paid. Similar demands have been made by other workmen's organisations. The Allahabad Bank Employees Union, Calcutta, has claimed that arrangement for washing uniforms of subordinate staff should be made by banks twice in a week, failing which a washing allowance of Rs. 5 per month should be paid. The Cochin Commercial Bank Employees Union has demanded washing allowance of Rs. 4 per month. The State Bank of Patiala (All Cadres) Employees Association has demanded Rs. 2 per month as washing allowance. The Banks have opposed an increase in the washing allowance. Taking all circumstances into consideration, I direct that a washing allowance of Rs. 2-50 nP. be paid in Area I, of Rs. 2 be paid in Area II and of Re. 1-50 nP. be paid in Area III by banks which have made no arrangements for getting the uniforms of the members of the subordinate staff washed. No such allowance would be payable by a bank where such washing arrangements have been made by the bank.

Hill Allowance

6.29. The Sastry Tribunal has provided for hill stations or towns with a height of 4,000 feet above sea level, $8\frac{1}{3}$ per cent. of the pay subject to a minimum of Rs. 6 per month, and for hill stations or towns above 5,500 feet above sea level,

12½ per cent. of the pay, subject to a minimum of Rs. 10 per month, by way of hill allowance for all workmen.

6.30. The All India Bank Employees Association has claimed for the hill stations having a height between 3,000 to 5,500 feet, 10 per cent. of pay with a minimum of Rs. 15 per month and for hill stations having a height of 5,500 feet and over, 15 per cent. of pay with a minimum of Rs. 25 per month. The All India Bank Employees Federation has claimed, for hill stations with a height of 3,000 feet above sea level, 10 per cent. of pay with a minimum of Rs. 12 per month and for hill stations with a height of over 3,000 feet, 15 per cent. of pay with a minimum of Rs. 24 per month. A large number of workmen's organisations have made demands similar to those of the All India Bank Employees Association while a few unions have made demands similar to the demands of the All India Bank Employees Federation in this respect. The State Bank of Patiala (All Cadres) Employees Association has claimed, that the hill allowance should be paid throughout the year and that it should be paid even when an employee is on leave. The banks are against any change in the hill allowance. The Bharatha Lakshmi Bank pleads for the exemption of small banks from the payment of hill allowance.

6.31. The workmen have not only asked for a variation in the basis but also in the quantum of the hill allowance. The reasons given for higher allowances are (1) inadequacy of the present allowance, and (2) the high cost of living at the hill stations where all necessities of life are imported from outside. It is stated that at hill stations, in summer, due to the influx of people, and in the rains, due to the communications being cut off, the prices soar high.

6.32. Having considered all aspects of the matter, including the change in the scales of pay provided under this award, I direct that for hill stations or towns with a height of 4,000 feet above sea level, upto 5,500 feet above sea level, 6 per cent. of the basic pay and of special allowance and of officiating allowance, if any, subject to a minimum of Rs. 6 per month and for hill stations or towns above 5,500 feet above sea level, 9 per cent. of the basic pay and of special allowance, and of officiating allowance, if any, subject to a minimum of Rs. 10 per month, should be paid to all employees who are workmen by way of hill allowance.

Fuel Allowance

6.33. The Sastry Tribunal directed the payment of a fuel allowance on the same basis and at the same rate as hill allowance, subject to a maximum of Rs. 20 per month for the five months of November to March.

6.34. The demand by most of the workers organisations is for the grant of a fuel allowance at the same rate as the one demanded for hill allowance for six months from October to March every year. The All India Bank Employees Federation, however, demands payment of this allowance throughout the year. A similar demand has also been made by some unions such as the Bihar Provincial Central Bank of India Employees Association, and the Central Bank of India Employees Associations at Patna, Muzaffarpur and Amritsar which usually follow the pattern of the demands of the All India Bank Employees Federation.

6.35. The State Bank of India Employees Associations, Bengal and Delhi Circles and the State Bank of Patiala (All Cadres) Employees Association have demanded that this allowance should be paid even when employees are on leave during the period during which fuel allowance is payable.

6.36. The banks do not want the existing provision for fuel allowance to be disturbed. The State Bank of India considers the change demanded in the fuel allowance as unreasonable. The Bharatha Lakshmi Bank submits that the provision regarding fuel allowance is not applicable to it.

6.37. The demand for a higher fuel allowance is made on account of the alleged increase in the cost and the difficulties experienced in obtaining fuel. It is alleged that since the present fuel allowance for only five months did not wholly cover the winter season it was demanded that the month of October should also be added to the period. The demand for payment of fuel allowance throughout the year is unreasonable and is rejected. No case has been made out for any increase in the period during which this allowance should be paid.

6.38. Having taken all aspects of the matter into consideration, including the change in the scales of pay under this award, I direct that fuel allowance should be paid for hill stations or towns with a height of 4,000 feet above sea level upto 5,500 feet above sea level at the rate of 6 per cent. of the basic pay, and of special

allowance and of officiating allowance, if any, subject to a minimum of Rs. 6 per month and a maximum of Rs. 20 per month, and for hill stations or towns above 5,500 feet above sea level, 9 per cent. of the basic pay and of special allowance and of officiating allowance, if any, subject to a minimum of Rs. 10 per month and a maximum of Rs. 20 per month should be paid, to all employees who are workmen by way of fuel allowance. This allowance will be payable for the five months of November to March of each year.

Conveyance Allowance

6.39. The Sastry Tribunal has directed that "where an employee incurs expenditure in the performance of bank's work, he should be reimbursed to the extent that the expenditure is fairly and legitimately incurred". The expenditure incurred for going from the employees' residence to office or *vice versa* was not covered by this direction as the same was deemed to be included in the pay scale. The employees have made a demand for conveyance allowance. I give directions similar to those given by the Sastry Tribunal in connection with conveyance allowance.

Cycle Peon Allowance

6.40. An allowance of Rs. 10 per month as cycle peon allowance has been demanded by some of the employees' unions. It was pointed out to me that some banks pay a cycle peon allowance ranging from Rs. 5 to Rs. 15 per month. The National Grindlays Bank is paying Rs. 15 per month as cycle peon allowance when the peon has to provide his own cycle. When a cycle is provided by a bank there is no case for a cycle peon allowance. In other cases it is not possible to provide for a uniform allowance. The payment of such allowance where it is warranted must be left to the discretion of the banks concerned.

Split Duty Allowance

6.41. Rs. 10 per month have been generally demanded for all employees whose hours of duty in a day are split. The All India Bank of Baroda Employees Federation has, however, demanded by a supplementary statement under the heading of "split duty allowance" that "employees who are required to work in branches which work in shifts should be paid a special allowance of Rs. 25 and Rs. 15 per month to clerks and subordinates, respectively". It is contended that the employees who perform split duty have to remain at the disposal of the bank for longer hours and cannot usefully utilise the interval of the break for their domestic needs and that if their residential houses are situated far away from the place of duty, they incur considerable inconvenience and expenditure in connection with the journeys several times during the day. A reference was made in this connection to the recommendations of the Second Pay Commission in its report at page 401 according to which split duty should not ordinarily be required to be done in more than 3 spells and when the employees residence is not close to the place of work, seven hours of split duty should be treated as equal to 8 hours of normal duty.

6.42. The banks are against the grant of split duty allowance. They submit that the management must have freedom to adjust office hours to suit the exigencies of their business so long as they do not exceed the limit provided by the award. The Bank of Baroda has stated that some branches of the Bank, specially in suburbs, work in two sessions, morning and evening for the convenience of customers in the locality but within the limits of the total working hours prescribed by the Sastry Award.

6.43. Before the Sastry Tribunal a demand was made that in such cases the workmen should be given a conveyance allowance for one trip and there should be a reduction by one hour in the total number of working hours in view of the double trip from home to office and back. The Sastry Tribunal did not give any directions as demanded as it considered that it was possible and not unlikely that there might be some compensatory advantages in such cases. It further considered that in any event it was a matter which was better left to the discretion of the management. Under paragraph 308 of the Sastry Award, the banks have been given the liberty to fix at their discretion the actual timing of work provided the provision relating to the maximum number of hours fixed was observed.

6.44. The working hours in banks are below the maximum prescribed under many Shops and Establishments Acts. Owing to climatic reasons or the

convenience of the customers some banks may keep some of their establishments open only in the mornings and evenings. It is not necessary to provide any general split duty allowance. In case of any genuine hardship the matter is best left to the discretion of the bank concerned.

Water Scarcity Allowance

6.45. A demand is made for scarcity allowance of Rs. 10 per month by most of the employees organisation. The All India Bank Employees Federation has demanded that "adequate scarcity allowance should be awarded having regard to the facts and circumstances prevailing due to scarcity of essential commodities and necessities of life". The Vadodra Rajya Bank Nokar Sangh has submitted that "scarcity allowance should be paid to the employees at the same rates as it paid by the Central Government or any other local authorities". At the time of the hearing it was stated by the All India Bank Employees Association that water scarcity allowance should be paid in the districts of Ambala, Bhatinda, Rohtak, Mohindergarh, Karnal, Gurgaon and Hissar in the East Punjab. It was pointed out that as a result of the decision of the Central Government Industrial Tribunal, Delhi such allowance is continued to be paid at Ambala, Karnal, Kaithal, Panipat, Sonapat, Rohtak, Hissar, Riwari, Sirsa, and Hansi. The employees have pointed out that there are many other places where there is water scarcity such as the districts of Ajmer, Bikaner, Marwar and Jodhpur in Rajasthan, Gandhi Dham in Kutch, Tiruppur, Udumalpet and Sivakasi in Madras and Surendar Nagar and Dhrangadhra in Gujarat. It is stated that the State Governments are in fact paying water scarcity allowance to some of their employees at various places during certain periods and that there is no reason why the employees of banks should not get a similar allowance. It is not possible to lay down in advance the amount of water scarcity allowance and the period during which such allowance should be given. Having carefully considered the matter in view of the present state of the record, the only directions which, I am giving are that water scarcity allowance should be paid by banks to such of their workmen employees who have actually been working in the areas for which water scarcity allowance is paid by the Central Government to its employees, the amount of such allowance and the period of payment of such allowance being the same as in the case of such Government employees. For the purpose of calculating the amount of such water scarcity allowance if the rates have been fixed with reference to the amount of pay of Government employees the same should be deemed to be a reference to the amount of basic pay, special allowance, if any, and officiating allowance, if any, payable to a workman under this award.

Children Allowance

6.46. The All India Bank Employees Federation, the State Bank of India Employees Association, Bengal Circle, the State Bank of India Employees Association, Delhi Circle, the Bihar Provincial Central Bank of India Employees Association, the Central Bank of India Employees Association, at Patna, Muzaffarpur and Amritsar, the Indian Overseas Bank Employees Union, Madras and the Allahabad Bank Employees Union, Calcutta, have claimed a children allowance of Rs. 10 per child with a maximum of Rs. 30. The State Bank of India Employees Association, Bengal Circle and the State Bank of India Employees Association, Delhi Circle have claimed this allowance as 'children and education allowance.' The Vadodra Rajya Bank Nokar Sangh has demanded a children allowance of Rs. 10 per child without fixing a maximum. The State Bank of Patiala (All Cadres) Employees Association has demanded a children allowance of Rs. 10 per child with a minimum of Rs. 30 per month. It has been argued that this allowance is a kind of children's education allowance.

6.47. The banks are opposed to the demand for children allowance. It is pleaded that the workmen are on incremental scales which take care of an increase in the family.

6.48. The All India Bank Employees Association which had claimed before the Sastry Tribunal a children allowance of Rs. 10 per month for every dependent child with a maximum of Rs. 30, has made no such claim before this Tribunal. While considering this demand of the All India Bank Employees Association the Sastry Tribunal had observed as follows:—

"We are not prepared to recommend any such allowance at the present stage of the banking industry Under the present circumstances the

employees can only look to his increasing emoluments to cope with his family's responsibilities. The demand for education or children's allowance is therefore disallowed."

It is true that the Reserve Bank pays this allowance to its employees under certain conditions, but that is only one isolated example. The grant of this allowance will impose a considerable burden on banks. I see no necessity of saddling banks with this additional burden. The claim of the employees for children allowance is disallowed.

Local Allowance

6.49. The All India Bank Employees Federation and some other unions have claimed a local allowance of Re. 1 per day on local transfer temporarily or otherwise from one office to another. The Cochin Commercial Bank Employees Association has claimed a transfer allowance (local offices only) of Rs. 2 per day for supervisory staff, Re. 1 per day for clerical staff and 50 nP. per day for subordinate staff. The All India Bank of Baroda Employees Federation, by a supplementary statement, has also made a demand under the heading "conveyance allowance" stating that when an employee is transferred from one branch to another situated in the same city but at a considerable distance from the original branch, he should be reimbursed by the bank to the extent he is subjected to additional expenses on account of such transfer. The banks have submitted that this demand is unjustified. No case has been made out for the grant of this allowance and the same is disallowed.

Bad Climate Allowance

6.50. By a supplementary statement, the All India Bank of Baroda Employees Federation has claimed a monthly allowance of Rs. 25 for clerks and Rs. 15 for the members of subordinate staff working in the Vyara branch of the Bank of Baroda on account of the bad climate of Vyara. In support of this claim it has been pointed out that the employees of the State Government working in Vyara are paid an allowance for reasons of bad climate. The Bank of Baroda in reply has stated that the terms and conditions of service of Government servants are different and therefore a reference to the payment of bad climate allowance by Government was not relevant in this enquiry. It states that the bank employees get under the Sastry Award medical aid which the State Government Employees do not get and this would adequately cover any expenses for medical attendance and treatment on account of the alleged bad climate at Vyara. It is further pleaded that the branch of the bank at Vyara was not economical.

6.51. There are various places in the country where bad climate allowance is being paid to State Government employees. No evidence has been led about the climatic conditions of Vyara and the extent of the relief required to be given and I am unable to provide any bad climate allowance. The demand is therefore not granted.

Officiating Allowance

6.52. The Sastry Tribunal has in this connection provided as follows:—

"Where a workman officiates for a period of longer than 15 days, he shall be paid an allowance calculated at the rate of 20 per cent of his own basic pay or 50 per cent of the difference between his basic and that of the person for whom he acts, whichever is lower."

6.53. The Labour Appellate Tribunal modified this provision and gave the following directions:—

"(1) Where the basic pay of the permanent incumbent exceeds the basic pay of the person officiating, the officiating allowance shall be 20 per cent of the basic pay or the difference between the two basic pays, whichever is less, provided that in no case will the officiating pay be less than 10 per cent of the basic pay of the person officiating. (2) Where the basic pay of the permanent incumbent is equal

to or less than that of the person officiating, the officiating pay shall be 10 per cent of the basic pay of the person officiating."

6.54. The workmen generally have demanded that an employee who officiates in a higher post, should be paid an allowance for the period of officiation at the rate of 25 per cent of his own pay or 15 per cent of the pay of the permanent incumbent in that post, whichever is more and that there should not be any minimum period for any employee to be eligible for an officiating allowance. The All India Bank Employees Federation has demanded that where the basic of the permanent incumbent exceeds the basic pay of the person officiating, the officiating allowance should be 20 per cent of the basic pay or the difference between the two pays, whichever is more and where the basic pay of the permanent incumbent is equal to or less than that of the person officiating, then the officiating allowance should be 15 per cent of the basic pay of the person officiating. It has also submitted that officiating allowance should be paid even when a workman officiates as a manager. Some Associations have made demands which are the same as those made by this Federation. The State Bank of India Employees' Association (Bengal Circle) has demanded that the employees officiating as sub-accountants and head cashiers, should be paid for the officiating period at the rate of Rs. 2.50 per diem. The State Bank of India Employees Association (Delhi Circle) has demanded that Rs. 100 per mensem should be paid to employees who officiate as sub-accountants and head-cashiers. The Vadora Rajya Bank Nokar Sangh has pleaded for the payment of officiating allowance to the employee officiating at the rate of 50 per cent of the difference of his own basic pay and that of the person for whom he officiates or 20 per cent of his own basic pay whichever is higher. The All India Bank of Baroda Employees Federation claims 15 per cent of the pay of the person officiating as allowance for the period he officiates. The State Bank of Patiala (All Cadres) Employees Association demands payment of officiating allowance "at the rate of 15 per cent of the pay to an employee for the period he officiates in the higher post".

6.55. The banks in general are in favour of the retention of the existing provisions on the subject of officiating allowance. The Bombay Exchange Banks Association has stated that no officiating allowance should be payable to an employee doing the work of another in the same grade. It has however submitted that if the permanent incumbent of a particular post was drawing a special allowance his *locum tenens* who was in the same grade should receive, provided he works there for atleast 15 consecutive days either the difference between the higher special allowance of the permanent incumbent and his own special allowance if he was in receipt of one, or the same special allowance as drawn by the permanent incumbent and no other allowance should be paid to the *locum tenens*. The State Bank of India has opposed the demand for a fixed quantum of officiating allowance. The Travancore Cochin Bankers Association has complained that the present rules governing the officiating allowance have created several anomalies in the sense, that if a clerk getting a basic pay of Rs. 150 takes leave and a new clerk undertakes his work, the banks are compelled to pay officiating allowance. It is pleaded that the officiating allowance should be made applicable only when (i) subordinate officiate in place of clerks or (ii) clerks officiate in place of officers. The Association has however stated that "the present method of payment may be continued".

6.56. After considering the demands of the workmen and all the circumstances of the case including the changes made in the pay scales under this award, I direct that where a workman officiates in a post carrying a salary higher than his own for a period exceeding 15 days, he should be paid an allowance for the period during which he officiates on the basis following:—

- (1) Where the basic pay of the permanent incumbent exceeds the basic pay of the person officiating, the officiating allowance shall be 15 per cent of the basic pay of the person officiating or the difference between the two basic pays whichever is less, provided that in no case will the officiating allowance be less than $7\frac{1}{2}$ per cent of the basic pay of the person officiating;
- (2) where the basic pay of the permanent incumbent is equal to or less than that of the person officiating, the officiating allowance shall be $7\frac{1}{2}$ per cent. of the basic pay of the person officiating.

City Compensatory Allowance

6.57. Besides the house rent allowance, the Indian Overseas Bank Employees Union, Madras, has demanded a city compensatory allowance at the following rates:—

“ For cities with population of	Subordinate	Clerical and Cash.	Supervisory
	Rs.	Rs.	Rs.
1 lac and over but below 5 lacs .	10/- flat.	15/- flat.	25/- flat.
5 lac and over but below 10 lacs .	15/- „	20/- „	50/- „
10 lacs and over	20/- „	25/- „	100/- „

Latest municipal figures should be taken into account to arrive at the population.

No case has been made out for the grant of this allowance and the claim in connection with the same is disallowed.

Pass Book Writers

6.58. There is a demand made for an allowance of Rs. 20 per month for pass book writers by the Cochin Commercial Bank Employees Association. There is no justification for the demand and the same is rejected.

Supplementary Callers

6.59. There is a demand made for an allowance of Rs. 10 per month for supplementary callers. No case is made out for the grant of any such allowance and the claim in connection with the same is rejected.

Hindi Language and Good Conduct Allowance

6.60. By its supplementary statement of claim the Indian Overseas Bank Employees Union, Madras, has demanded payment of a Hindi language allowance and the merger of the good conduct allowance in the basic pay. With regard to the Hindi language allowance, the Union has stated that this allowance was being given to employees at the Bombay and Calcutta branches of the bank till 1956. The same was stopped afterwards for employees who had been appointed at or transferred to those centres. Subsequently the said allowance was not given to certain employees who were in service even before 1956. The Union demands that all the employees should be paid this allowance with retrospective effect. About the good conduct allowance, the Union has submitted that the said allowance was being paid to employees serving at certain branches like Bombay, Delhi and Calcutta who did not absent themselves for more than 4 days in a month with the object of preventing the employees from availing themselves of leave to their credit. The Union now prays that the good conduct allowance should be merged with the basic pay by granting two increments.

6.61. The Indian Overseas Bank, in reply, has stated that the Hindi language allowance was granted in May 1949 as an incentive for the South Indian members of the staff working in Bombay and Calcutta to acquire knowledge of that language “which was even then gaining importance in the North India centres”. This allowance was granted at the rate of Rs. 15 per mensem for clerical staff and at the rate of Rs. 25 per mensem for supervisory staff belonging to South Indian communities and working in any of those centres where the knowledge of Hindi was contributing to efficient service to the bank's constituents. It is further stated that with the Hindi language becoming the national language under the Constitution of India which by itself would constitute requisite incentive for members of the South Indian communities to learn the language, this language allowance was withdrawn by the bank as from January 1957, but the recipients of this special allowance as on that date continue to get this allowance. In respect of the good conduct allowance the bank has explained that a good conduct and regular attendance allowance of Rs. 15 per mensem to non-graduates and Rs. 25 per mensem to graduate members of the clerical staff was being paid from 1st April 1949 at Bombay, Mandvi and Calcutta on certain terms and conditions at a time when the salary conditions of the bank's staff in general were not satisfactory as an incentive to the bank's clerical staff who put in regular attendance and efficient service. This allowance was continued at those centres, although the

Sastry Award had granted adequate benefits by way of increased salary and allowances to the workmen of banks.

6.62. The bank has also made a reference to a "key allowance" and has stated that under the provisions of the Sastry Award members of the cash department staff were not eligible for any special allowance if the requisite number of clerks was not working under them; but this point was raised by the Indian Overseas Bank Employees Union before the Regional Labour Commissioner at Madras and as a gesture of goodwill, the bank agreed to pay a key allowance of Rs. 15 to the cash department staff who are in joint custody of cash at the various centres. The Bank has pleaded that when the scales of salary and special allowances that may be granted by this Tribunal come into force, these allowances would have to be withdrawn even from those who are now drawing such allowances, that the bank should be at liberty to do this as there was no statutory obligation on the bank to continue the same, that the present recipients of these allowances could not claim the salary and allowances that may be granted by this Tribunal and at the same time insist on payment of these allowances and if the employees so choose, they may be given the choice to opt *in toto* for the privileges and benefits they are now enjoying and should not be allowed to get the better of the two sets of scales of pay and allowances.

6.63. With regard to the Hindi allowance and good conduct allowance, Shri Sowani, in rejoinder, has stated that these allowances should be continued in cases of employees who are actually receiving them or else they may be merged in their basic pay. No case has been made out for the grant of any of the reliefs claimed by the workmen. The continuation of these allowances rests entirely with the management and I give no direction in connection therewith.

6.64. By its written statement, the Andhra Bank has stated that it is at present allowing a key allowance to shroffs holding joint custody of safe keys. It is submitted that such allowance is not a special allowance and that shroffs attending to cash duties must also hold the joint custody of safe keys and that this allowance should be dropped. I give no directions regarding the grant or stoppage of this allowance. The matter is left entirely to the discretion of the management to take such decision in connection therewith as it deems fit.

(iii) Travelling Allowance

6.65. In connection with travelling allowance, the Sastry Award, as modified, has provided as under:—

Employees on Transfer

An employee who is not a member of the subordinate staff transferred from one station to another shall be paid his travelling allowance on the following basis:—

- (1) One and a half second class fares by rail or steamer for himself and further second class fares for his family, if taken,
- (2) Third class fare by rail or steamer for one servant, if taken.
- (3) The cost actually incurred in transferring his personal effects in Bengal maunds at goods rates as follows:—

Range of total emoluments including pay, dearness allowance, special allowance and house rent allowance.	Married	Unmarried
Rs. 200 and above	20	15
Below Rs. 200	15	12

- (4) Any other expenditure unavoidably incurred such as packing, crating, tonga, coolie hire, etc., established to the satisfaction of the sanctioning authority and subject to any rules made by the bank in this behalf.

An employee who is a member of the subordinate staff shall for similar journeys be paid as follows:—

- (1) One and a half third class fares by rail or steamer for himself and further third class fares for his family, if taken.

- (2) The cost actually incurred in transferring his personal property up to a maximum of ten Bengal maunds at goods rates in the case of a married employee and five Bengal maunds in other cases.
- (3) Actual expenses incurred on cartage, ghari, mazdoor hire, etc. established to the satisfaction of the sanctioning authority.

Where the place to which or from which an employee is transferred is not connected or partly connected by railway or steamer he shall be entitled to ~~get~~ for himself and his family road mileage at the rate of two annas a mile. The rate is fixed per head both for the clerical and subordinate class.

In respect of personal property carried up to the limits specified above to and from the place of transfer, the employee shall be entitled to the actual expenses incurred by him in transporting the same through an 'out-agency' if available. In other cases he shall be entitled to the actual cost of transporting the same through an authorised transport company.

NOTES:

- (1) Family means an employee's wife and children ordinarily residing with and wholly dependent on him.
- (2) When, for any reason, the family of an employee does not travel with him but joins with him within a period of six months from the date of his transfer, an employee shall be entitled to draw the further fares and the cost of transporting luggage payable for the family, subject to the limits fixed in the preceding paragraphs.
- (3) Where the family in consequence of transfer travels from a place other than that from which an employee is transferred an employee may draw the actual travelling expenses incurred by his family to join the employee at the new station but the amount so drawn shall not exceed the travelling allowance admissible to the employee were the employee's family stationed at the place whence the employee was transferred.
- (4) If the family of an employee in consequence of transfer travels to a station other than that to which the employee is transferred an employee may draw travelling allowance expenses for his family but subject to the condition that the amount so drawn shall not exceed the travelling allowance admissible to the employee had the family proceeded to the station to which the employee was transferred.
- (5) An employee shall be entitled to draw the actual expenditure incurred by him for transporting his personal property irrespective of the mode of conveyance engaged by him provided he does not exceed the maximum amount admissible to him for the transport of personal property by goods train except where it is otherwise provided for in this paragraph.

Employees on Tour

In the case of journeys by rail or steamer other than on transfer, where an employee has to travel for inspection or other duty in the interests of the bank an employee who is not a member of the subordinate staff shall be paid his travelling expenses on the following basis:—

- (1) One second class fare to and fro for himself by rail or steamer.
- (2) One third class fare by rail or steamer to and fro for his servant, if taken, where the period of stay away from headquarters exceeds thirty days.
- (3) The actual cost, if any, of freight of his personal belongings.
- (4) Any other expenditure unavoidably incurred such as tonga, cooly hire, etc. established to the satisfaction of the sanctioning authority and subject to any rules made by the bank in this behalf.

An employee of the subordinate staff shall be entitled to one third class fare to and fro for himself by rail or steamer. Clauses (3) and (4) *supra* would equally apply to him also.

In respect of journeys performed between places not connected or partly connected by railway or steamer an employee shall be entitled to claim road

mileage at the rate of two annas a mile whether he is a member of the subordinate or non-subordinate staff.

11

General

(1) Where an employee travels by a class lower than the one allowed to him he shall be entitled to claim travelling allowance only at the rate actually paid. The banks may, however, pay on the scale allowed where they are satisfied that travel by a lower class is unavoidable and due to circumstances beyond the control of the employee.

(2) All claims should be supported by a certificate from the employee concerned.

(3) The claim for journeys can ordinarily be only for the shortest route.

The All India Bank Employees Association has claimed that an employee on transfer or on tour on official duty or on deputation outside the permanent station should be paid travelling allowance at the following rate:—

- (a) A member of the subordinate staff should be paid $1\frac{1}{2}$ times class Two fare for himself and his family including parents, dependent brothers and dependent sisters.
- (b) A member of clerical and supervisory staff should be paid $1\frac{1}{2}$ times class One fare for himself and his family including parents, dependent brothers and dependent sisters.

All categories of employees should get road mileage at 12 nP. per mile for routes not connected by rail or steamer. All categories of employees should be paid actual expenses incurred on luggage, conveyance, cooly hire, packing, crating, etc., in course of journey. In addition to the above, a member of the clerical or supervisory staff should be paid a Second Class fare by rail or steamer for his servant if taken.

6.66. The All India Bank Employees Federation has claimed that travelling allowance should be awarded as follows:—

	Supervisory Staff	Clerks	Subordinate Staff
(i) Fare by rail or steamer for the employees	$1\frac{1}{2}$ 1st Class	$1\frac{1}{2}$ 1st Class	$1\frac{1}{2}$ 2nd Class.
For family members	1 do.	1 do.	1 do.
For 1 servant, if taken	3rd Class	3rd Class	Nil
(ii) The costs actually incurred in transferring personal effects should be paid at passenger rates.			
(iii) Actual expenses on packing, tonga or taxi hire, coolie hire, etc. should be paid.			
(iv) Employees on transfer should also be paid travelling expenses of all their dependents.			

6.67. The other workmen's organisations have made more or less similar demands. Some of them have followed the pattern of demands of the All India Bank Employees Association and some the All India Bank Employees Federation.

6.68. The All India State Bank of India Staff Federation and the State Bank of India State Union, Andhra Pradesh, have not demanded travelling and halting allowance for supervisory staff and while the former has demanded road mileage at 12 nP. per mile subject to minimum of 37 nP. for routes not connected by rail or steamer the latter has claimed road mileage at 20 nP. per mile subject to minimum of 37 nP. for routes not connected by rail or steamer. The State Bank of India Employees Association (Bengal Circle) and the State Bank of India Employees Association (Delhi Circle), have demanded actual expenses for routes not connected by rail or steamer. The State Bank of India Employees Association (Bengal Circle) has demanded the actual cost incurred in transferring personal effects and luggage upto a maximum of 20 Bengal maunds for clerical staff and without any limit for the subordinate staff. The State Bank of India Employees Association (Delhi Circle) has demanded the actual cost incurred in transferring personal effects and luggage upto a maximum of 25 maunds for clerical staff and of 20 maunds for married and of 15 maunds for unmarried members of the subordinate staff. The Vadodra Rajya Bank Nokar Sangh has claimed travelling

allowance for the employee and his family whenever he proceeds on privilege leave. The State Bank of Patiala (All Cadres) Employees Association has claimed road mileage at the rate of 13 nP. per mile and the payment of actual cost in transferring personal effects with the limits following:—

Category of Employee	Married	Unmarried
Clerical and supervisory	30 Bengal maunds	15 Bengal maunds
Subordinate	20 do.	15 do.

The All India Bank of Baroda Employees Federation, by its supplementary statement of claim, has demanded travelling allowance for subordinate staff at the same rate at which the All India Bank Employees Association has claimed it, but it has added that travelling allowance to subordinate staff should also be paid while he is on deputation outside his permanent station.

6.69. The banks generally submit that the existing provisions should continue and oppose the demands made by the employees in excess thereof. The Northern India Banks Association has submitted that when two stations are not connected by rail or sea but are connected by road and there is a bus arrangement the actual bus fare should be paid to the employees travelling on bank's business. The Travancore Cochin Bankers Association has taken objection to the demand for 12 nP. per mile for routes not connected by rail or steamer as it contends that bus fares are generally much less. The Bharatha Lakshmi Bank submits that only third class fares should be allowed to its clerks and peons. The Jaya Laxmi Bank submits that the family of workmen to be provided in connection with the travelling allowance should be the employee, his wife and two children. The Miraj State Bank states that it has adequate rules governing travelling allowance which have given rise to no disputes in the past.

6.70. At the time when the Sastry Tribunal gave its award, a passenger travelling by train could generally travel, apart from the air-conditioned class, by first class, second class, inter class and third class. A passenger travelling by second class when he travelled at night, was entitled to sleeping accommodation and to have a full berth reserved for the night journey. At present a person can travel generally, apart from the air-conditioned class, by first class, second class and third class. A person, at present travelling by second class, is only entitled to a seat for the journey during the night and is not entitled to sleeping accommodation or to have a berth reserved for himself for the night journey. It is desirable that members of the clerical staff when they travel by train should have sleeping accommodation at night. It is therefore necessary to modify the provisions of the Sastry Award, and I do so by providing that whenever a workman, who is not a member of the subordinate staff, is transferred from one station to another or has to travel for inspection or other duty in the interests of the bank and in the course of such journey, has to travel by train by night, he shall be paid, in addition to what is provided under the Sastry Award as modified, reproduced above, a further amount equivalent to the difference between one second class fare by train and one first class fare by train for the full journey for himself provided he has travelled throughout the journey in the first class. When he is transferred from one station to another and is entitled to claim travelling allowance for his family and the family has to travel by night he will be entitled to be paid the difference between the second class fare and first class fare for the members of his family also provided they have actually travelled in the first class. The expression "travel by night" for the purpose of this provision will include journey for a period of six or more hours between the hours of 7-00 P.M. on one day and 7-00 A.M. on the next day.

6.71. In case of journeys performed on the railway lines on which there is no second class provided, an employee and his family who are ordinarily entitled to travel by second class would be entitled to travel by first class and would be entitled to claim the first class fare for such travel.

6.72. As a result of the modifications made by the Labour Appellate Tribunal travelling allowance at a uniform rate of 1½ second class fare by rail or steamer is provided for employees who are not members of the subordinate staff on transfer irrespective of the amount of emoluments drawn by them. It is not necessary to make any distinction when considering the extent of personal effects which may be carried by such persons at the cost of the bank. The measures of weight have

also changed. I modify the existing provisions by providing that an employee who is not a member of the subordinate staff, on transfer, shall be paid the cost actually incurred in transferring his personal effects at goods rate weighing as follows:—

For married persons 760 Kilos or 7.6 Quintals.

For unmarried persons 570 Kilos or 5.7 Quintals.

6.73. The Sastry Tribunal has provided that a member of the subordinate staff when travelling on transfer shall be paid the cost actually incurred in transferring his personal property upto a maximum of 10 Bengal maunds at goods rate in the case of a married employee and 5 Bengal maunds in other cases. I modify the aforesaid provisions by providing 380 kilograms or 3.80 Quintals in place of 10 Bengal maunds in the case of a married employee and 190 Kilograms or 1.9 Quintals in place of 5 Bengal maunds in other cases.

6.74. The Sastry Tribunal in connection with employees on transfer or on tour has provided for road mileage at the rate of 2 annas a mile where a place is not connected or partly connected by railway or steamer. I modify the aforesaid provisions by substituting a "eight naye Paise per kilometer" for "two annas a mile".

6.75. A claim has been made that on transfer, an amount equivalent to one month's salary should be paid in order to cover breakages and other incidental expenses and to enable the workman to settle down in the new place of employment. Whenever goods have to be transferred from one place to another there is a possibility of breakage or of damage to goods. On transfer, often expenses have to be incurred which would not otherwise have to be incurred. In order to compensate an employee for such losses and expenses, I direct that on transfer a sum of Rs. 25 in lump should be paid to all workmen other than those belonging to the subordinate staff and a sum of Rs. 15 in lump should be paid to the members of the subordinate staff.

6.76. I make an award in connection with travelling allowance in terms of the provisions of the Sastry Award as modified set out above with the further modifications and additions hereinbefore mentioned. No case has been made out for further or other additions or modifications.

Halting Allowance

6.77. The Sastry Tribunal accepted the definition of the expression "halting allowance" given in the Reserve Bank of India Staff Regulations, namely, as a "payment made to an employee in addition to other emoluments for any day during which an employee is absent from headquarters on duty and is intended to cover the ordinary daily expenses incurred by him in consequence of such absence". The Sastry Tribunal gave the following directions in respect of halting allowance for each day:—

(1) Scale of halting allowance shall be as follows:—

For Banks 'A' and 'B'.

	In respect of halt in Area.		
	I	II	III
	Rs. As. P.	Rs. As. P.	Rs. As. P.
Subordinate staff	2 4 0	2 0 0	2 0 0
Employees who are not members of subordinate staff drawing a pay of:			
Under Rs. 100	4 0 0	3 0 0	3 0 0
Rs. 100 to Rs.149 (inclusive)	5 0 0	4 0 0	4 0 0
Rs. 150 to Rs. 199 (inclusive)	6 0 0	5 0 0	5 0 0
Rs. 200 and above (inclusive)	7 0 0	6 0 0	6 0 0

For Banks 'C' and 'D'

	In respect of halt in Area.								
	I			II			III		
	Rs.	As.	P.	Rs.	As.	P.	Rs.	As.	P.
Subordinate staff	2	4	0	1	12	0	1	12	0
Employees who are not members of subordinate staff drawing a pay of :									
Under Rs. 100	3	0	0	2	0	0	2	0	0
Rs. 100 to Rs. 149 (inclusive)	4	0	0	3	0	0	3	0	0
Rs. 150 to Rs. 199 (inclusive)	5	0	0	4	0	0	4	0	0
Rs. 200 and above (inclusive)	6	0	0	5	0	0	5	0	0

"Pay" means basic pay, officiating and special allowances, if any.

- (2) For the purpose of halting allowance a day shall mean each period of 24 hours or any part thereof reckoned from the time the employee leaves his headquarters, provided the duration of absence from headquarters covers at least one night.
- (3) Halting allowance is payable in addition to the class of fare to and fro to which the employee is entitled for travel as on tour.
- (4) Journeys completed in the same day where the work entrusted to an employee of the clerical grade is such that it does not involve night stay and enables him to return to headquarters the same day, the employee shall be entitled (a) to a single second class fare to and fro for himself. An employee of the subordinate cadre shall get only third class fare to and fro, and (b) the employee shall in addition be entitled to get batta at one-half of the rates fixed above (see clause 1 *supra*) according as he belongs to the clerical or subordinate staff".

6.78. The All India Bank Employees Association has claimed halting allowance for all employees who are required to be absent from headquarters on duty at the rates following:—

Subordinate staff	Rs. 6/- per diem.
Clerk	Rs. 8/- per diem.
Supervisor	Rs. 10/- per diem."

It has further claimed that halting allowance should be paid to all employees "who are deputed out-stations on temporary transfer", that half day's halting allowance should be admissible when the journey is completed on the same day and that if the stay outside the headquarters exceeds twenty-four hours, 'a day' should mean each period of "twenty-four hours" or any part thereof.

6.79. The All India Bank Employees Federation has claimed halting allowance at the rates following:—

"Halting allowance in—	Supervisory Staff	Clerks	Subordinate Staff
Cities having population below 20 lacs	Rs. 14 per day	Rs. 10 per day.	Rs. 6 per day.
Over 10 lacs	Rs. 16 per day	Rs. 12 per day	Rs. 8 per day.

6.80. The All India State Bank of India Staff Federation has claimed halting allowance when an employee is required to be absent from headquarters on duty. For subordinate staff it has claimed a halting allowance for cities with population of less than 10 lakhs at the rate of Rs. 6 per diem and at Rs. 8 per diem for cities with population of 10 lakhs and above. For clerical staff halting allowance at the

rate of Rs. 10 per diem for cities with population of less than 10 lakhs and at the rate of Rs. 12 per diem for cities with population of 10 lakhs and above has been claimed. It has also claimed that halting allowance should be paid to all employees who are deputed to out-stations on temporary transfers, that half day's halting allowance should be admissible when journey is completed on the same day and that if the stay outside headquarters exceeds twenty-four hours 'a day' should mean each period of twenty-four hours' or any part thereof.

6.81. The Vadodra Rajya Bank Nokar Sangh has claimed that by way of halting allowance an employee who is not a member of the subordinate staff drawing a pay of less than Rs. 205 should be paid Rs. 8 per day, an employee drawing a pay of Rs. 205 and above should be paid Rs. 10 per day and employees who are members of the subordinate staff should be paid Rs. 5 per day.

6.82. Demands more or less of a similar nature have been made by some other workmens' organisations. The All India Bank of Baroda Employees Federation has, by a supplementary statement, claimed halting allowance at the same rate at which the All India Bank Employees Association has claimed it but it has also demanded halting allowance for all employees who are required to leave their headquarters on temporary transfers as also for the godown keepers who are required to be in charge of godowns situated at a considerable distance from the branches to which they are attached.

6.83. The banks in general are opposed to a change in the present provisions of the Sastry Award regarding halting allowance as they consider them to be adequate. The Bombay Exchange Banks Association has submitted that it is contrary to principle to pay halting allowance in the case of temporary transfer and that halting allowance should only be admissible when an employee is required to stay overnight outside the headquarters. The Bank of Baroda, in reply to the demand of the All India Bank of Baroda Employees Federation in connection with halting allowance to godown keepers, has stated that when an employee takes up employment as a godown keeper he knows that he will be posted at godowns which are generally located near factories and outside residential areas, that the work of a godown keeper must, by the very nature of the job involve his posting at godowns at some distance from the branch where he is posted and that the wages fixed for him have already taken such things into account. The bank is, therefore, opposed to the grant of halting allowance to godown keepers.

6.84. Halting allowance is intended to cover the ordinary daily expenses incurred by an employee when an employee is absent from headquarters on duty. It is not intended to yield any profit. The expenses incurred by employees when absent from headquarters on duty do not vary according to the working funds of the banks in which they are employed and it is desirable that all classes of banks should pay halting allowance at the same rate in the same area. Having considered all aspects of the matter I give the following directions in respect of halting allowance for each day payable to employees employed in all classes of banks including banks in the Excepted List:—

(1) The new scale of halting allowance will be as follows:—

	In respect of halt in area		
	I	II	III
	Rs. nP.	Rs. nP.	Rs. nP.
Subordinate staff	3 00	2 50	2 00
Employees who are not members of subordinate staff, drawing a pay of—			
Under Rs. 150	5 00	4 00	4 00
Rs. 150/- to Rs. 199/- (inclusive) .	6 00	5 00	5 00
Rs. 200/- and above	7 00	6 00	6 00

"Pay" means basic pay, special allowance, if any, and officiating allowance, if any.

(2) For the purpose of calculating halting allowance 'a day' shall mean each period of 24 hours or any part thereof reckoned from the time the employee leaves his headquarters, provided the duration of absence from headquarters covers at least one night.

- (3) Halting allowance is payable in addition to the class of fare to and fro to which the employee is entitled for travel as on tour.
- (4) *Journeys completed in the same day*:—Where the work entrusted to a workman is such that it does not involve night stay and enables him to return to headquarters the same day, he shall be entitled if he is not a member of the subordinate staff (a) to a single second class fare to and fro for himself and (b) to batta at one half the rates set out in clause 1 above applicable to him and if he is a member of the subordinate staff (a) to a single third class fare to and fro for himself and (b) to batta at one half the rates set out in clause 1 above applicable to him

(iv) Joining Time on Transfer

6.85. The All India Bank Employees Association has demanded that an employee on transfer or on deputation outside his permanent station shall have at least 10 days joining time, excluding the actual period involved in the journey and that the joining time should not count as a part of the earned leave of the employee. Same is the demand of the All India State Bank of India Staff Federation and the State Bank of India Staff Union, Andhra Pradesh, Vijayawada. The State Bank of India Employees Association (Bengal Circle) and the State Bank of India Employees Association (Delhi Circle), have demanded a grant of at least one week's leave as joining time.

6.86. The question of joining time is not covered by the item of reference under consideration which relates to house rent and other allowances including travelling and halting allowances and leave fare concessions. The question of transfer and the matters incidental to it have not been referred to me and I give no direction in connection with the same.

(v) Leave Fare Concessions

6.87. The Sastry Tribunal in paragraph 474 of its award has turned down the demand for leave fare concession on the ground that extra burden of such leave fare concessions should not be cast on the banks at the then stage of the industry. The Sastry Tribunal has observed that the employees are generally recruited from and work in their home towns or at places not very far off and that the demand had not found favour in any adjudication known to the Sastry Tribunal.

6.88. The All India Bank Employees Association has claimed that an employee while proceeding on leave for not less than thirty days at a time should be paid railway fare for self and family to and fro from his native place or to any other place of change upto 1,000 miles once in three years.

6.89. The All India Bank Employees Federation has claimed that when an employee proceeds on leave he should be granted leave fare concession for himself and his family to meet the cost of travelling etc. at the rate following:—

- (i) Fare by rail, road or sea upto a distance of 1,000 miles once in two years for the employee and his family.
- (ii) The stipulated mileage to be waived in the case of those who have to travel to their native places.

6.90. The All India State Bank of India Staff Federation, the State Bank of India Staff Union, Andhra Pradesh, Vijayawada, the All India Bank of Baroda Employees Federation, and the Employees Association of the Union Bank of Bijapur and Sholapur, have claimed the same leave fare concession as the All India Bank Employees Association. The Bihar Provincial Central Bank of India Employees Association, The Central Bank of India Employees Association, Patna, Muzaffarpur, and Amritsar and the Vadodra Rajya Bank Noker Sangh have made a demand in respect of leave fare concessions similar to that of the All India Bank Employees Federation. The Indian Overseas Bank Employees Union, Madras has demanded first class fare by rail, road or sea upto a distance of 900 miles once in a year for the employee and his family and has submitted that the stipulation of mileage should be waived when he is going to native place. The State Bank of India Employees Associations (Bengal Circle), and the State Bank of India Employees Association (Delhi Circle), have demanded that while an employee proceeds on leave he should be paid railway fares for self and his family to and from his native place or to any other place of change upto 900 miles once in two years.

The Cochin Commercial Bank Employees Association has demanded the following leave fare concession:—

- (i) Employees proceeding on Annual Leave (Privilege Leave) or sick leave to their native places, health resorts on medical grounds—Travelling allowance to and fro to be paid.
- (ii) Delegates attending Annual conferences of Registered Trade Unions of the particular Bank or of Federations to which the Union is affiliated fare concessions as above”.

6.91. Banks in general are opposed to the demand for leave fare concession. The Bombay Exchange Banks Association has stated that even in cases where the home towns of bank employees are situated at a considerable distance from their places of work they have nevertheless normally been recruited at these offices on their own applications which implied that they themselves had chosen to settle down in those places. The Northern India Banks Association submits that the demand of the employees for leave fare concessions will cause a heavy burden unnecessarily on the banks of the class represented by it. The National Bank of Lahore submits that “the employee who cares to avail of his leave at a distant place should be able to save from his own earnings” and that the bank should not be burdened with leave fare concession which even the officers of the bank were not getting. The Travancore-Cochin Bankers’ Association has stated that the employees are almost local people and that there is no necessity for them to travel 1,000 miles as per their claim. The Bharatha Lakshmi Bank pleads that leave fare concession “should not be made applicable to banks”. The Miraj State Bank has stated that the question of granting leave fare concession to employees did not arise in the case of that bank “as the workmen employed in the bank do not travel any considerable distance for the purpose of availing themselves of their leave” and that the bank could not also “afford the luxury of granting any leave fare to its workmen”.

6.92. The Sen Tribunal, while it did not give any directions in this connection, had recommended in paragraph 333 of its award the adoption of a rule by at least the bigger banks under which facilities of the kind suggested by the Central Pay Commission even if some what restricted (e.g. payment of half the expenses in question or once in two years) may be available to at least such of their employees, as have their homes at a considerable distance from the place where they have to serve their employers.

6.93 In the Reserve Bank of India leave fare concession is available to the place of domicile or upto 750 miles (1,208 kilometers) and back to all employees including officers and their families once in three years provided the minimum period of leave other than casual leave and extraordinary leave is one month. Leave fare concession is also provided in several commercial concerns. The Labour Appellate Tribunal of India in the case of *Rallies India Ltd. and Their Staff* reported in 1952 (II) LLJ. at page 441, set aside the order of the adjudicator refusing the claim for such leave fare concession and directed that railway fare should be paid to the employees to enable them to go to their homes for their holiday and directed that the company at its discretion should either pay them the cost of a ticket or provide them with a ticket to go to their homes within Madras State or its borders and that when the employee returned after his leave he should be entitled to receive from the company the return fare of the journey. The Labour Appellate Tribunal further directed that the employee should be given the fare of the class to which he would be entitled if he were proceeding on duty. In that case the company was in fact giving such allowance in Bombay and Calcutta and had expressed its willingness before the Labour Appellate Tribunal to extend the same to the workmen.

6.94. One of the grounds on which the Sastry Tribunal turned down this demand was the extra burden which the granting of the demand would have imposed on banks at the then stage of the industry. That ground, in my view, is not available to A Class banks. They are well able to bear the burden of such concession. I direct that A Class banks should give to the workmen employed by them leave fare concession once in every three years when they go on leave for not less than thirty days as follows:—

- (1) Actual railway fare or steamer fare incurred by the employee for himself and members of his family consisting of wife and children wholly dependent upon him for travel from the place of work to the place of his domicile, if situate within India, or from the place of work to any place not more than 800 kilometers distant from the place of work for rest and recuperation.

- (2) If a place is accessible by both the aforesaid means of transport, the cheapest means of transport is to be provided for.
- (3) The class of fare to which the workmen and the members of his family would be entitled would be the same to which the workman is entitled while he travels on duty.

CHAPTER VII

Item No. 5: PROVIDENT FUND, INCLUDING THE RATE OF CONTRIBUTION AND THE RATE OF INTEREST

7.1. Provident fund is mainly a retiring benefit. To some extent it forms part of the current wage structure. It differs from other retiring benefits, like gratuity or pension inasmuch as the fund is made up of contributions by an employee from his pay and similar contributions made by the bank. The main idea behind this retiring benefit is to provide for the employee and his family an adequate amount by way of compulsory saving augmented by a substantial contribution made by an employer.

7.2. The Sastry Tribunal took the view that the provisions relating to provident fund have to be taken into consideration in fixing the wage structure and directed that the banks should have provident fund schemes on the lines indicated below:—

- (1) The provident fund should obtain recognition under the Indian Income-tax Act 1922 and for this purpose the rules under the provident fund should not be contrary to any rules laid down under the Indian Income-tax Act. Where a bank for reasons of its own does not choose to get the provident fund recognised under the provisions of the Indian Income-tax Act the burden of the income-tax to the extent to which the employees would not have to bear if the fund were a recognised fund must be borne by the banks and not passed on to the employees.
- (2) All whole-time employees of the bank other than personal or domestic servants, if any, should be allowed the benefit of the fund as and from the date of confirmation in service.
- (3) There should be no minimum amount of salary or remuneration fixed for any employee to become eligible to join the provident fund.
- (4) Every eligible employee shall be required to subscribe to the fund in accordance with the rules.
- (5) The rules should provide for every subscriber to the fund nominating a person or persons either belonging to the subscriber's family or dependant on him to receive the amount that may stand to the credit of his fund in the event of his death occurring before the amount has become payable.
- (6) Each subscriber shall be given a pass book in which shall be entered the amounts to his credit, made up of his contribution and the bank's contribution and the interest earned on the total moneys in his account. The advances taken, if any, and the repayments made should also be entered therein. The subscription due from each subscriber shall be realised by monthly deductions from his emoluments.
- (7) Every subscriber shall subscribe monthly to the fund when on duty. The payment of subscription during leave shall be optional. The amount of subscription shall be 8-1/3 per cent. of the monthly pay in case of banks in groups A and B and 6-1/4 per cent. in case of banks in C and D groups. Pay means basic pay, special allowances and officiating allowance, if any.
- (8) The bank shall make a monthly contribution to the account of each subscriber equal to the amount subscribed by the workman and such contribution shall be credited to the fund not later than fifteen days after the subscription is deducted from his emoluments.
- (9) The fund shall be administered by a Board of Trustees on which the workmen also should have representation to the extent of 1/4th of the total strength of the Board.

- (10) Moneys of the fund not immediately required for purposes of the fund and held in a Bank account shall be invested by the Board in any securities for the time being authorised under the Indian Income-tax Act, 1922, and the Trusts Act, 1882 and the rules made thereunder in respect of the investments of moneys of the Provident Fund recognised under the Indian Income-tax Act, 1922. Compound interest with half yearly rests will be allowed. Interest earned on the moneys of the Fund shall be credited to the account of the individual subscriber. The banks, however, shall have the liberty to contribute other amounts at their discretion.
- (11) Withdrawals by workmen and repayments by them shall be governed by the rules relating to such matters framed under the Indian Income-tax Act, 1922, as conditions for recognition of Provident Funds under Section 58(c) of the Act.
- (12) If a subscriber dies or for other reasons ceases to be a subscriber the amount standing to his credit in the Fund including interest upto date shall become payable to him or his nominee, subject to any withdrawal made under rule 11.
- (13) No claim shall be entertainable against the Fund if made more than three years after the date on which the amount due became payable.
- (14) Any amount due from the Fund shall cease to bear interest after three months from the date on which the amount became payable.
- (15) Payments under rule 12 to the employee or his nominees in the event of his death, shall be made within one month of the date on which they fall due. In the case of death of an employee who has no subsisting nomination it shall be competent for the Board to pay the amount due to the natural heir or heirs of the deceased employee provided the Board is satisfied as to the heirship of the claimant or claimants.
- (16) (i) Subject to the provisions of sub-rule (ii) no deduction shall be made from the amount standing to the credit of a subscriber when final payment is made to him or his nominees except as otherwise provided for in this scheme.
 (ii) (a) A subscriber who has put in ten years of service and over shall be paid the full amount of the bank's contribution with interest.
 (b) Those who have served five years and more but less than ten years shall be entitled to the bank's contribution at the rate of ten per cent. of such contribution with interest for each completed year of service.
 (c) Those who have served for less than five years shall not be entitled to any portion of the bank's contribution or interest on it.
- (17) There shall be no forfeiture of any amount due to a workman under this scheme excepting in the case where he is dismissed for misconduct causing financial loss to the employer, and in such cases, limited only to the extent of such financial loss."

7.3. The Sastry Tribunal directed the banks to have an appropriate scheme of provident fund on the above lines and gave liberty to the banks to add such other provisions as were necessary and not repugnant to the aforesaid provisions and left it to the discretion of banks to give more favourable terms. It further laid down that the "Indian Banks" whose existing provident fund schemes provided for higher rates, should have the liberty to adopt the new rates fixed by the Sastry Tribunal with effect from 1st April, 1953. It further stated that if for any reason there should be any technical difficulty in modifying any existing schemes of provident fund, the banks should start a new provident fund, the then existing employees being allowed to join the new fund in addition to their membership of the existing fund, the employees having to contribute to the new fund only the difference, if any, between the rate of contribution fixed under the scheme laid down in the award and the rate prevailing under the pre-existing scheme. It further directed that "until the existing provident fund scheme was suitably amended or new fund or funds were suitable" by the Sastry Tribunal, the banks should pay monthly to each of the workmen a special allowance called "the provident fund excess contribution" so calculated as to make up the difference between the amount then -

be contributed and the higher amount fixed as per directions given in the award, and that such allowance should be paid till the regular provident fund scheme, as contemplated in the award or with the alterations suggested in the award came into existence. The banks which had no provident fund schemes were directed to bring into existence within four months from the publication of the award, a fund on the lines indicated above. The Sastry Tribunal directed the payment of an additional gratuity to those workmen who had not enjoyed the benefit of a provident fund or who had not been allowed to join an existing provident fund after confirmation.

7.4. The Sastry Tribunal left it to the banks concerned to devise a proper machinery either by convention or by rules so as to provide for the representation of workmen to the extent of 1/4th of the total strength of the Board of Trustees.

7.5. As regards the provident fund in the Imperial Bank of India which was governed by the provisions of the Provident Fund Act, XIX of 1925, the Sastry Tribunal directed the alteration of the rules of its provident fund to provide for a contribution at the rate of 8-1/3 per cent, as in the case of "the major Indian Banks". It also directed that in case there was any difficulty in carrying out the alteration in the rules until the rules were so altered a special monthly allowance called "provident fund excess contribution allowance" should be given to the workmen to cover the difference between the then existing rate of five per cent. and the rate of 8-1/3 per cent. fixed by the Tribunal.

7.6. As regards the Exchange Banks which were before the Sastry Tribunal, it laid down that in their case also the minimum rate of contribution should be 8-1/3 per cent. and that the Exchange Banks which were having higher rates of contribution were not to reduce them. In case of the Exchange Banks wherein the rate of contribution was less than 8-1/3 per cent. the Tribunal directed that the workmen should be paid a special "provident fund excess contribution allowance" made up of the difference between the existing rate and the rate fixed under its award wherever the existing rate was less. In view of the difficulties that might be experienced, the Exchange Banks were exempted from the relevant provisions in the general scheme laid down by it for the representation of the workmen.

7.7. The Labour Appellate Tribunal, in dealing with the demand that bank employees with a period of service of less than five years should not be deprived of the bank's contribution, stated that it did not see how it could alter the directions of the Sastry Tribunal on the point as the same did not involve any question of law. It, however, observed that the same was unfortunate as the directions given did have "certain undesirable features" and expressed the view that its refusal to interfere with the directions of the Sastry Tribunal must not be understood to be an approval of the directions on the merits.

7.8. In connection with the directions given by the Sastry Tribunal that wherever the Exchange Banks were making a contribution to the provident fund in excess of that prescribed by the Sastry Tribunal, they should continue to do so, the Labour Appellate Tribunal altered the directions as regards the Hongkong and Shanghai Banking Corporation which under its rules had provided for contribution at the rate of 20 per cent of the basic pay as against 5 per cent. contribution by the workmen. The Labour Appellate Tribunal applied the general scheme of provident fund as given by the Sastry Award to this bank. The National City Bank of New York which was contributing 10 per cent. of basic pay as provident fund as against the employees' contribution of 5 per cent. had not appealed against the decision of the Sastry Tribunal and hence the Labour Appellate Tribunal did not feel itself called upon to vary the award as regards that bank.

7.9. As regards the directions given by the Sastry Tribunal in connection with payment of the "provident fund excess contribution allowance" the Labour Appellate Tribunal took the view that the direction was one which was contrary to principle inasmuch as it provided for an immediate cash payment to the workmen whereas the provident fund scheme was devised for giving the employees a retiring benefit. It therefore directed that instead of the amount of the "provident fund excess contribution allowance" being paid in cash to the employees, the same should be held by the bank for the employees concerned in a deposit account to be ultimately paid to the employees as a retiring benefit.

7.10. The Labour Appellate Tribunal rejected the demand of the workmen that they should have at least one-half representation on the Board of Trustees, observing that the provident funds of the banks were not confined to workmen alone, that officers of the banks were also permitted to be members of the fund, that *prima facie*, it was fair that officers should have equal representation with the workmen and that the banks as parties making contributions equal to those made by the workmen and officers together should have representation to the same extent as officers and workmen combined. In connection with the choosing of the representatives of the workmen, it observed that the "banks should, however, be able to devise a method by which someone stationed at that place (where the accounts of the fund were maintained) and likely to command confidence of workmen members of the fund can be appointed as their trustee-representative."

7.11. The All India Bank Employees' Association submitted that all permanent employees including the part-time employees should be made members of the provident fund, that the rate of contribution by the employees should be 9-3/8 per cent of the total monthly emoluments made up of basic pay, dearness allowance, special allowance, and officiating allowance, if any, that the bank should contribute an equal amount every month, that interest at the rate of 6 per cent per annum with six monthly rests should be paid on the total contribution by the employee and the bank, that "unclaimed amounts in the fund should be distributed *pro-rata* every three years amongst the existing members of the fund" and that full benefits of the fund should be permitted to an employee on completion of one year's service. It also claims that on the Board of Provident Fund Trust, the workmen and employers should have equal number of representatives, that workmen's representatives should be elected by themselves by simple majority of votes and that re-election of the workmen's representatives should be held after every three years unless necessitated earlier by death or resignation or re-call by a majority of the workmen.

7.12. The All India Bank Employees Federation has demanded that contribution by both the banks and the employees should be at the rate of 12-1/2 per cent of the total emoluments, that "lapsed and/or unclaimed fund" should be distributed *pro-rata* amongst the members of the fund every year, that there should be "equal representations of workmen in the Board of Trustees", that benefits of the fund should be allowed to all the employees including part-time permanent employees, that full provident fund should be paid after five years of service and that in case of death or resignation as a result of illness or disability, full provident fund should be paid even before five years of service.

7.13. The All India State Bank of India Staff Federation has claimed that all permanent employees including part-time employees should be made members of the provident fund scheme, that the rate of contribution should be ten per cent of pay and the bank should contribute an equal amount every month, that interest at the rate of five per cent per annum with six monthly rests on the total contribution by the employees and the bank should be allowed, that unclaimed amounts in the fund should be distributed *pro-rata* every three years amongst the existing members of the fund, that full benefits of the fund should be permitted to an employee on completion of one year's service, that on the Board of Provident Fund Trust, the workmen and employers should have equal number of representatives, that workmen's representatives should be elected by themselves by simple majority of votes, that re-election of the workmen's representatives should be held after every three years unless necessitated earlier by death or resignation or re-call by a majority of workmen.

7.14. The Vadodra Rajya Bank Nogar Sangh has claimed that the rate of contribution should not be less than 10 per cent of total emoluments of the employee i.e. basic pay, dearness allowance and special allowance and that like amount should be contributed by the bank, and that interest on the same should be paid at the rate of five per cent, that an employee should be entitled to full amount contributed including the bank's contribution after five years of service, that in the case of resignation or retirement an employee should be entitled to the full amount of contribution including the bank's contribution after five years of service, that in the case of termination of service of an employee by the bank or on retrenchment or on death or mental or physical disability of an employee to continue further in service he should be entitled to full contribution of the bank, irrespective of the length of service, that fifty per cent of the Trustees of the provident fund Trust should be elected by the employees and that part-time employees also should be made members of the provident fund and that a certified copy of the Provident Fund Rules and the yearly balance-sheet of the Fund should be given to each member of the fund by the bank.

7.15. The State Bank of India Staff Union, Andhra Pradesh, and the All India Bank of Baroda Employees Federation have made the same demands as the All India Bank Employees' Association. Other Unions of the bank employees have also made demands which are more or less similar to the demands of the All India Bank Employees' Association with some difference in the rate of contribution and the rate of interest and the length of service after which full amount of the provident fund should become payable. The State Bank of Patiala (All Cadres) Employees Association wants that all the permanent and temporary (whole-time workers) should be members of the provident fund.

7.16. The Bihar Provincial Central Bank of India Employees' Association and the Central Bank of India Employees Associations at Patna, Mazaffarpur and Amritsar have made the same demands as the All India Bank Employees Federation. Some of them also claim in addition 6% interest on provident fund accumulations and want that the workmen should be allowed payment of regular insurance premia from the provident fund without prejudice to the grant of loans from it.

7.17. The Indian Banks Association, while opposing the demands of the workmen, has submitted that the Tribunal should lay down that the representative of workmen, once appointed, should hold office for at least a period of five years unless he vacated the same by reason of the rules of the provident fund or on his transfer from the place where the fund was being administered to another branch of the bank or on his being promoted from clerical grade to an officers' grade. It is claimed that liberty should be given to the banks to give to the employees either Pass Books or Statements of Account in respect of their provident fund account. It is submitted that when an employee, instead of being dismissed, was discharged or allowed to resign by the management in order that no stigma might attach to him a provision should be made that the employer's contribution to the provident fund would be liable to forfeiture provided such termination was the result of misconduct causing financial loss to the employer. It is contended that the demands regarding distribution of unclaimed amount and about representation on the Board of Trustees were outside the jurisdiction of the Tribunal as they did not constitute industrial disputes within the meaning of the Industrial Disputes Act.

7.18. The Bombay Exchange Banks Association has submitted that there has been no change in the circumstances necessitating any revision of the scheme formulated under the Sastry Award as modified. About the part-time employees, it has pointed out that they take up part-time jobs in order to supplement their main source of income and not with a view to "making a career", that actual hours of work may differ from employee to employee and that it is unreasonable that such part-time employees should be entitled to any benefits intended for permanent employees. It has further submitted that if it is decided to have a higher wage structure or a part of the dearness allowance is consolidated with the basic pay, then the rate of contribution to the provident fund should be reduced, that in order to avoid discrimination the banks which are at present making a higher contribution than that prescribed for other banks should be permitted to alter their rate of contribution so as to conform to the general practice. As regards the demand for fixed interest on the total amount of contributions, it has submitted that it is not within the powers of the bank to determine the interest earned on the investments of the provident fund, as a recognised provident fund such as the bank's is required by statute to be invested in specific securities and the Board of Trustees in whom the fund is vested as required under the Indian Income-tax Act, is the only competent authority to determine the rate of interest on the basis of the yields of the various securities. As regards the distribution of unclaimed amounts it is stated that the same were credited to the lapse and forfeiture fund, that the disposal of money in the fund was governed by the relevant rules of the provident fund concerned and that the previous permission of the Commissioner of Income-Tax would be necessary for making any alteration therein. It is further submitted that the demands in respect of interest and the distribution of unclaimed amounts and the representation on the Board of Trustees did not constitute industrial disputes within the meaning of section 2 (k) of the Industrial Disputes Act, 1947. It has demanded that paragraph 368 (17) of the Sastry Award should be amended so as to read as under:—

"Contributions made by the employer may in his discretion be forfeited in cases of dismissal, termination of service or resignation resulting from gross misconduct or dishonesty or fraud or attempt thereof."

7.19. The State Bank of India points out that in so far as the provident fund is concerned, there are two sets of employees: (1) those who had been in employment of its predecessors, the Imperial Bank of India, and (2) those who had been employed on and after the State Bank of India came into being, that as regards the

first class of employees provision is made for their provident fund, pension and other superannuation benefits by section 7 (2) read with section 50 of the State Bank of India Act, 1955, that in so far as the second class of employees is concerned the provisions of section 33 read with section 50 of the said Act apply and that in view of these statutory provisions, any rules to be framed or any regulations to be introduced were required to have the previous sanction of the Central Government. It has submitted that the State Bank has no power and should not be asked to make any alterations in the conditions regulations, rules or quantum of any benefits in either the provident fund of the Imperial Bank of India or in that of the State Bank of India. It has further submitted that the Tribunal had no jurisdiction in any way to revise the terms, conditions, rules and regulations of either of the said provident funds or to direct introduction of any other superannuation or pension benefits. It has further submitted that the demands made (i) about rate of interest, (ii) about the distribution of "unclaimed fund and the amount in the Provident Fund Forfeiture Account" *pro-rata* amongst the existing employees, (iii) about full benefits of the fund being given on completion of 5 years of service and (iv) about an equal number of employees representatives being on the Board of Trustees, were not industrial disputes under the Industrial Disputes Act, 1947. It has pleaded that under section 8 of the State Bank of India Act, it is the Central Government which has to specify the Trustees and the Tribunal has no jurisdiction to do so. It has opposed the demands made by the employees of the State Bank.

7.20. The Indian Banks Association on behalf of the Subsidiaries of the State Bank of India has also made submissions similar to those of the State Bank of India mentioned above after giving reference to the sections 11(2), 5 and 63(2) (c) of the State Bank of India (Subsidiary Banks) Act, 1959.

7.21. It has pleaded that the right to substitute or appoint trustees has been conferred by enactment on the State Bank of India and that "it would amount to re-writing the Act if directions are given on this point." It has further pleaded that the demands in respect of interest, distribution of unclaimed amounts and the representation on the Board of Trustees could not be regarded as industrial disputes within the meaning of section 2(k) of the Industrial Disputes Act, 1947.

7.22. On behalf of the State Bank of Patiala, it is stated that the employees of the bank who were given in 1958 revised grades by the bank, enjoyed the benefit of ten per cent contribution towards the provident fund based on basic pay plus dearness pay which was fifty per cent of the dearness allowance, that such employees were also entitled to interest at the rate of five per cent per annum with half-yearly rests and were entitled to the benefit of insurance rebate. It has adopted the other contentions raised by the Indian Banks Association on behalf of its member banks.

7.23. The Northern India Banks Association opposes the demands of the employees and says that its member banks are already contributing 8 1/3 per cent of the workmen's salary towards the provident fund as against 6 1/4 per cent under the Sastry Award. The Miraj State Bank has submitted that its present scheme of provident fund provides for contribution of 8 1/3 per cent of the basic pay and that as the fund is vested in Trustees who are not parties to the present Reference, this Tribunal has no jurisdiction to entertain the demand about provident fund in the Miraj State Bank.

7.24. Under the provisions of the Sastry Award as modified, the rate of subscription to the provident fund by workmen is 8 1/3 per cent of the monthly "pay" in the case of employees of A and B classes of banks, and 6 1/4 per cent of the monthly "pay" in the case of employees of C and D classes of banks, the expression "pay" being defined to mean basic pay, special allowance and officiating allowance, if any. The banks have to make a contribution of an equal amount. Under this award, the scheme relating to wage scales and dearness allowance has undergone considerable change owing to the merger of a considerable part of dearness allowance with the basic pay. The remuneration payable to workmen has also been increased. The basic pay under this award is materially different from the basic pay under the Sastry Award as modified. If the basic pay under this award is substituted for the basic pay under the Sastry Award for the purpose of provident fund contribution, very large amounts will have to be contributed by most of the employees and the banks by way of provident fund. The employees have claimed that there should be a larger contribution to the provident fund both by the employees and the banks. The employees have referred to commercial concerns wherein for the purpose of provident fund contribution, dearness allowance

is also taken into account. In making my award in connection with provident fund, I have to bear in mind the paying capacity of the banks and the overall effect of the various provisions made in my award on banks. Having carefully considered all aspects of the matter, I direct that the contribution to be made by workmen under this award to the provident fund shall be $8\frac{1}{3}$ per cent of the monthly pay as hereinafter defined in respect of employees of A and B classes of banks, and $6\frac{1}{2}$ per cent of such pay for employees of C class banks including banks in the Excepted List. The expression "pay" for the purpose of provident fund contribution shall in the case of members of the subordinate staff employed by A, B and C classes of banks excluding banks in the Excepted List mean (i) 75 per cent of the basic pay payable under this award, (ii) full amount of special allowance if any, payable under this award and (iii) the full amount of officiating allowance, if any, payable under this award, and in the case of other workmen employed by A, B and C classes of banks but excluding the banks in the Excepted List, mean (i) 80 per cent of the basic pay payable under this award, (ii) full amount of special allowance, if any, payable under this award and (iii) the full amount of officiating allowance, if any, payable under this award.

7.25. As regards members of the subordinate staff employed by the bank in the Excepted List, the expression "pay" for the purpose of provident fund contribution, shall mean (i) the full amount of basic pay payable under this award, (ii) the full amount of special allowance, if any, payable under this award and (iii) the full amount of officiating allowance, if any, payable under this award.

7.26. As regards workmen other than those belonging to the subordinate staff employed by banks in the Excepted List, the expression "pay" for the purpose of provident fund contribution shall mean (i) 90% of the amount of basic pay payable under this award, (ii) the full amount of special allowance, if any, payable under this award and (iii) the full amount of officiating allowance, if any payable under this award.

7.27. The banks concerned will be under an obligation to make a contribution of the like amount.

7.28. As a result of the aforesaid provisions, banks will have to bear a larger burden in connection with provident fund than at present.

7.29. As regards any bank which is at present making a contribution higher than the contribution provided under this award, it is left to the discretion of the bank either to continue its present scheme or bring it in line with the provisions herein contained.

7.30. The Miraj State Bank has contended that it has a provident fund and that the contribution made by its employees and by the bank is at the rate of $8\frac{1}{3}$ per cent of the basic pay, even though it is a bank liable to be regarded as a D Class bank. This bank provides only one retiring benefit in the shape of provident fund. There is no reason why this bank should not fall in line with other banks and provide two retiring benefits. The provisions relating to provident fund contained in this award will apply to this bank.

7.31. In connection with the demand that part time employees should be allowed the benefit of provident fund, there is not much material placed before me regarding the hours of work and the conditions of service of such part-time employees. It was contended that part-time employees take up service in order to supplement their main source of income. There is no evidence before me as regards the degree of their attachment to the banks concerned. In the present state of the record, it is not possible for me to make any provision relating to provident fund in connection with part-time employees.

7.32. The Labour Appellate Tribunal has referred to "certain undesirable features" in connection with the provisions contained in the Sastry Award laying down that those who had served the bank for less than five years would not be entitled to any portion of the bank's contribution or interest thereon. Where an employee dies before the completion of the period of five years or where he is retrenched by the employer within the aforesaid period, or where his services are terminated on account of illness or physical disability or for reasons beyond his control, it is but fair that he or his heirs or legal representatives or nominees should receive the full amount standing to his credit in the provident fund including the employers contribution therein with interest thereon, and I direct accordingly. Except to the extent indicated above, the provision relating to five years' service is not required to be altered.

7.33. As regards the claim that fixed amount of interest be paid on the total contributions made to the provident fund both by the employers and the employees, apart from the question of jurisdiction, it is not possible to give any directions to that effect. A provident fund, in order to be a recognised provident fund under the Income-tax Act is required to be vested in two or more trustees or in the Official Trustee under trust which shall not be revocable save with the consent of all beneficiaries. It is the earnings of the fund which will determine the rate of interest.

7.34. As regards the number of representatives of workmen on the Board of Trustees, the reason given by the Labour Appellate Tribunal for retaining the provision of the Sastry Award confining the representation of workmen to one-fourth of the total number of trustees still holds good. Apart from the question of jurisdiction, no change is required to be made in this connection. The Exchange Banks have been rightly exempted from this provision and no change is required to be made in connection therewith.

7.35. The Indian Banks Association has made a request for a direction laying down that a representative of workmen once appointed, shall hold office for at least a period of five years unless he vacates the same by reason of the rules of the provident fund or on his transfer from the place where the fund was being administered to another branch of the bank, or on his being promoted from the clerical grade to the officers' grade. On behalf of workmen, a claim has been made that workmen's representatives should be elected by the workmen by a simple majority of votes and that the re-election of the workers' representative should be held after every three years unless necessitated earlier by death or resignation or by recall by a majority of workmen. Whilst providing that the workmen's representation on the Board of Trustees should be to the extent of one-fourth of the total strength of the Board, the Sastry Tribunal did not lay down any procedure by which workmen's representative could be taken on the Board of Trustees. The Labour Appellate Tribunal noted the absence of this provision and left it to the banks to devise a method by which some persons stationed at the place where the accounts of the fund were kept and who were likely to command the confidence of the workmen, could be appointed trustees. A question has been raised whether any dispute in connection with the constitution of the Board of Trustees is an industrial dispute and reliance has been placed upon a decision of the Labour Appellate Tribunal in the case of Muzaffarpur Electricity Supply Company Ltd., reported in 1957 (II) Labour Law Journal, page 542. It is, however, not necessary for me to deal with this point as I am not giving any directions in connection with the demand made both on behalf of the banks and the workmen in connection with the constitution of the Board of Trustees. The present scheme has, by and large, been working smoothly and no serious difficulties of any kind have been brought to my notice. If any directions have to be given, it is necessary that there should be a proper scheme framed for the election of trustees. No such scheme has even been placed before me. There may be some technical difficulties in giving effect to such scheme when formulated. Taking all the circumstances into account, I do not see any necessity of acceding to the demand made in this connection on behalf of the banks or on behalf of the workmen.

7.36. A demand has been made that unclaimed amounts in the fund should be distributed *pro-rata* every three years amongst the existing members of the fund. Apart from the question whether such a demand constitutes an industrial dispute and apart from the question whether such dispute could be adjudicated in the absence of other contributories to the fund or in the absence of the Trustees, no case has been made out for such distribution. A provident fund has to be administered in accordance with the terms of the scheme governing the same. No case has been made out for giving any directions making it obligatory on any bank or any trustees of the provident fund to distribute any unclaimed amounts amongst persons, who are actually in service, during the period of their service. I cannot accede to the demand made in this connection.

7.37. A demand has been made on behalf of some of the banks that where an employee has been guilty of misconduct causing financial loss to the bank, the bank should be permitted to imburse such loss to the extent of the contributions made to the provident fund by the bank concerned and interest which has accrued due on the amounts so contributed in cases where the employers, instead of inflicting the punishment of dismissal, is content to inflict the punishment of discharge or is content to allow the employee to resign. The demand as made appears to be reasonable. There is no reason why in the case of misconduct of

an employee which has caused a loss to the employer, the employer should not be permitted to reimburse the amount of the loss as aforesaid merely because the employer is desirous of being a little lenient in dealing with his employee. There are, however, other considerations which have to be borne in mind in dealing with this demand. The provident fund scheme is based on the footing that the provident fund should be a "recognised provident fund" within the meaning of the Income-tax Act so as attract its beneficial provisions in connection with provident fund and the contributions made to it. The Income Tax Act, 1961, provides in Part A of the Fourth Schedule for rules in connection with a recognised provident fund. One of the aforesaid rules runs as under:—

"4. In order that a provident fund may receive and retain recognition, it shall, subject to the provisions of rule 5, satisfy the conditions set out below and any other conditions which the Board may, by rules, specify—

* * * * *

- (f) the employer shall not be entitled to recover any sum whatsoever from the fund, save in cases where the employee is dismissed for misconduct or voluntarily leaves his employment otherwise than on account of ill-health or other unavoidable cause before the expiration of the term of service specified in this behalf in the regulations of the fund:

Provided that in such cases the recoveries made by the employer shall be limited to the contributions made by him to the individual account of the employee, and to interest credited in respect of such contributions in accordance with the regulations of the fund and the accumulations thereof."

In view of the aforesaid provision, it is not possible for me to accede to the banks' demand in this connection.

7.38. Some of the banks have pleaded that inconvenience is caused to them on account of the provision in the Sastry Award relating to the furnishing of pass books to employees in connection with the provident fund account. The banks want liberty to supply statements of account instead. I direct that the banks will supply to each workman either a pass book or an annual Statement of Account in connection with the workman's provident fund account.

7.39. A claim has been made on behalf of workmen that a certified copy of the Provident Fund Rules should be supplied to each workman. It is fair that every employee who is subscribing to a provident fund should be supplied with a copy of the Provident Fund Rules by the bank concerned, and I direct accordingly.

7.40. A demand has been made on behalf of some workmen that moneys standing to the credit of a workman in his provident fund account should be allowed to be utilised for payment of insurance premia on policies taken out by the workman. It was pointed out that the Punjab National Bank Ltd., already provides for such facility. My attention was also invited to the rules contained in the Employees Provident Fund Scheme, 1952, which permits withdrawals to be made from the provident fund for payment of premia in respect of insurance policies. Under this Scheme, such withdrawals are subject to certain conditions and are controlled by the Commissioner for Employees' Provident Fund. There is no general demand for such facility, and I do not wish to make it obligatory on all banks to provide this facility. I leave it to the discretion of the individual banks concerned to provide such facility to the employees under such conditions as may be prescribed by the rules relating to provident fund.

7.41. The State Bank of India and its Subsidiaries have contended that I have no jurisdiction to make any award in connection with provident fund so far as the State Bank of India and its Subsidiaries are concerned. Section 7 of the State Bank of India Act, 1955 relates *inter alia* to provident fund applicable to the employees of the Imperial Bank whose services have been transferred to the State Bank of India. The provision relating to provident fund of the Imperial Bank continue to apply to them until the same are duly altered by the State Bank of India. The powers of the State Bank of India in connection with provident fund are governed by the provisions of section 50 of the Act which lays down that the Central Board, after consultation with the Reserve Bank and with the previous sanction of the Central Government, may make regulations

to provide for the establishment and maintenance of provident fund for the benefit of the employees of the State Bank of India. As regards the Subsidiaries of the State Bank, section 11 of the State Bank of India (Subsidiary Banks) Act, 1959 deals with the question of provident fund in respect of employees of the then existing banks whose services were transferred to the Subsidiaries of the State Bank. Section 63 of the said Act provides that the State Bank may, with the approval of the Reserve Bank, make in respect of Subsidiary banks regulations not inconsistent with the Act and the rules made thereunder providing for the establishment and maintenance of provident fund and the persons or authorities who shall administer such fund. The aforesaid provisions present difficulties in my giving any directions to the State Bank of India and its Subsidiaries in connection with provident fund. But for technical difficulties coming in my way, I would have given directions in connection with the State Bank of India and its Subsidiaries similar to those given by me in connection with other banks as regards provident fund.

7.42. I am conscious of the fact that the trustees of the provident fund of various banks are not before me and the subscribers other than the workmen subscribing to the provident fund of banks are also not before me. To the extent that there exists any legal bar to my giving any directions which are mandatory, the directions which I have given should be regarded as merely recommendatory. If any of the banks other than the State Bank of India and its Subsidiaries is, for any reason, unable to give effect to the provisions herein contained relating to provident fund within a period of six months from the date of publication of this award, it will be under an obligation to start a new provident fund containing the aforesaid benefits or, alternatively, a supplementary provident fund which together with any existing provident fund secures such benefits. It is intended that the provisions herein contained relating to provident fund should become operative from the date when the employees become entitled to receive remuneration on the basis of the new scales of pay under this award. Until a provident fund scheme is framed by a bank in accordance with what is contained herein or the existing provident fund scheme is altered so as to fall in line with the provisions herein contained, a bank shall be entitled to deduct from the remuneration payable to a workman provident fund subscription at the rate herein provided and will be under an obligation to contribute an equal amount and to the extent that such subscription and contribution are not paid over to the trustees of a provident fund, the same shall be held by the bank for the employee concerned in a suspense deposit account to be ultimately paid over to the employee as a retiring benefit. As observed by the Labour Appellate Tribunal, this may take one of several forms; it may be found possible to deposit the moneys into the account of the employee in the existing provident fund or it may be necessary to institute a new provident fund in which the deposit can be made, or the workman's employment may terminate before either of these alternatives is available, in which case, the moneys will be paid over to him or his representative direct. The Labour Appellate Tribunal permitted the banks to follow the appropriate alternative. I give similar direction in this award.

7.43. The provisions of Sastry Award hereinbefore stated modified by the Labour Appellate Tribunal decision and as further modified by me, will apply to banks before me and their workmen except to the extent stated by me. Any reference to the Indian Income Tax Act 1922, and its provisions will now be a reference to the Income Tax Act, 1961 and the corresponding provisions contained therein. The aforesaid provisions will not apply to the State Bank of India and its Subsidiaries.

CHAPTER VIII

Item No. 6: PENSION AND GRATUITY

(1) Gratuity

8.1. I shall first deal with Gratuity.

8.2. As observed by the Sen Tribunal it is an elementary principle that an employee who has served an institution during the best part of his life should not, on his retirement, have to face the prospects of starvation and indebtedness or dire poverty and it should also be expected that even when an employee dies while in service or shortly after his retirement, his family should have some provision to fall back upon, at least for a time; in old days many an employee even in a humble situation, could hope to save something against a rainy day,

but in these days of high cost of living the chances of saving anything substantially are dwindling greatly, if not disappearing, for a great many employees of the lower middle class. The Sastry Tribunal agreed with the above observations and took the view that in the banking industry a compulsory gratuity scheme should be provided. It accordingly directed that except where there was a scheme for a non-contributory pension and an employee was actually allowed a pension under such a scheme, a gratuity should be paid to each employee who was covered by the award. It laid down that at least one such benefit namely gratuity or pension must be given to a workman in addition to the benefit of a provident fund scheme, subject however to certain exceptions laid down by it.

8.3. The Sastry Award as modified, provides as follows:—

I. Banks in Group 'A'.

- (1) On the death of an employee while in service of the bank, one month's pay for each completed year of service subject to a maximum of 15 months' pay to be paid to his heirs, executors, assignees or nominees.
- (2) On an employee becoming physically or mentally incapable of further service or on termination of his service by the employer—gratuity at the same rate as above.
- (3) On voluntary retirement or resignation of an employee after 10 years' continuous service, gratuity at the same rate as above.

II. Banks in Group B.

Gratuity is payable at the rate set out above as applicable to A group banks, the maximum being 12 months' pay.

III. Banks in Group C.

Gratuity is payable at the rate specified for banks in A group, maximum being limited to 9 months' pay.

IV. Banks in Group D.

Gratuity is payable at the rate specified for banks in group A, the maximum being limited to 6 months' pay.

- V. Where a workman has put in service of over 30 years he should be paid an extra amount at the rate of additional half a month's pay for each completed year of service beyond 30 years. To that extent the maximum provided in his case will be increased.

- VI. Length of service shall be calculated as the total period from the day of the initial appointment (whether permanent, temporary or on probation) in the bank to the day of retirement from bank's service. In cases where employees formerly employed in areas now known as Pakistan are re-employed in India after 15th August, 1947, even after a break in service, the aggregate of their total services in both areas must be taken as the total period of service.

- VII. The pay, for purposes of calculating the gratuity, shall be the average of the basic pay and special allowance and officiating allowance payable during the 12 months next preceding death, disability, retirement, resignation, or termination of services, as the case may be. A bank will have the liberty to grant gratuity in excess of the scale set out above in its discretion.

- VIII. Wherever a scheme of gratuity now in existence in a bank is more favourable to the employee than the one laid down by us (the Sastry Tribunal), the benefits of such a scheme shall continue to be enjoyed by its employees.

- IX. Gratuity should be paid to a workman even if he enters service of another bank, notwithstanding any condition to the contrary in any existing scheme of gratuity and there should be no such condition in any new scheme.

- X. Income tax and super tax, if any, payable on gratuity granted to a workman shall be borne by the bank.

8.4. The Sastry Tribunal further directed that there should be no forfeiture of gratuity even for dismissal on account of misconduct except in cases where such misconduct caused financial loss to the company, and even in that case, limited the provision relating to forfeiture only to the extent of such loss. The Labour Appellate Tribunal set aside the decision of the Sastry Tribunal on this point and directed that an employee who was dismissed for misconduct, shall not be entitled to gratuity.

8.5. The All India Bank-Employees' Association has claimed that gratuity should be payable to an employee on retirement, termination of service, retrenchment or workman's mental or physical disability to continue further in service, at the rate of one month's pay plus dearness allowance on the basis of the salary last payable for every year of service or a major fraction thereof, without any ceiling, that in case of death of an employee, his heirs should be paid gratuity at the rate of two month's pay plus dearness allowance for each year of service or a major fraction thereof, that gratuity should also be paid on voluntary retirement or resignation after completion of five years of service, that any income-tax payable on such gratuity should be borne by the bank and that where in any bank, provident fund scheme was introduced late, the employees affected should be compensated for such a period, by payment of additional gratuity at the usual rate in addition to the gratuity normally admissible.

8.6. The All India Bank Employees' Federation has claimed (1) "one month's wages for every year of service without any ceiling calculated from the date of appointment on the basis of the last pay drawn"; (2) "full gratuity to be paid after five years of service"; (3) "full gratuity to be paid without any service restriction to employees becoming physically or mentally disabled to continue further in service, or in cases of retrenchment and termination of services."

8.7. The All India State Bank of India Staff Federation has made the following demands:—(1) Gratuity should be payable to an employee on retirement, resignation, termination of service, retrenchment or mental or physical disability to continue further in service at the rate of one month's pay plus dearness allowance (on the salary last payable) for every year of service or a major fraction thereof, without any ceiling, provided he has completed five years of service. (2) In case of death of an employee, his heirs or successors, should be paid gratuity at the rate of two months pay plus dearness allowance for each year of service or a major fraction thereof if the family of the deceased employee is not entitled to pension as demanded. (3) Any income-tax payable on such gratuity should be borne by the bank. (4) Where provident fund scheme was introduced late for any category of employees, the employees affected should be compensated for such a period, by payment of additional gratuity at the usual rate.

8.8. The State Bank of India Employees Association (Bengal Circle) has made the following claims:—

- (a) One month's pay plus dearness allowance (on the basis of salary last drawn for every year of service without any ceiling as at present).
- (b) Full gratuity to be paid on completion of 5 years of service.
- (c) Gratuity be paid on voluntary retirement or resignation.
- (d) Any Income-tax payable on such gratuity should be borne by the bank.

8.9. The State Bank of India Employees' Association (Delhi Circle) has made the following claims:—

- (i) The existing rules for payment of gratuity should remain (i.e. one month's pay for each completed year of service without any ceiling) but it should be calculated from the date of appointment.
- (ii) On an employee becoming at any time physically or mentally disabled to continue further in service or on grounds other than retrenchment after five years' total service (instead of ten years as it exists now) gratuity at the same rate as above should be paid.
- (iii) On voluntary retirement or resignation of an employee after five year's continuous service (instead of ten years) gratuity at the same rate should be paid. Any income-tax payable on such gratuity should be borne by the bank.

8.10. The Vadodra Rajya Bank Nokar Sangh has submitted that in addition to the provident fund, employees should also have the benefit of adequate

pension and gratuity to enable them to have sufficient funds at the time of retirement, resignation, death or termination of services, as the case may be. It has made a demand for uniform rules for gratuity including the rate of gratuity, irrespective of the size of the banks and it has claimed one month's wages for every year of service without any ceiling from the date of appointment, on the basis of the pay last drawn, full gratuity being payable after five years of service. It has further claimed that full gratuity should be paid without any service restrictions to employees physically or mentally disabled to continue further in service, or in cases of retrenchment or termination of services.

8.11. The Indian Overseas Bank Employees' Union has claimed that the rate of gratuity should be one month's pay (pay being last drawn pay) plus dearness allowance for each completed year of service without any ceiling, and that the period of service should be calculated from the date of appointment and that full gratuity should be paid on the completion of five years of service, except in cases of retrenchment or termination of service of an employee where no such limitation should be placed.

8.12. The State Bank of India Staff Union (Andhra Pradesh), the All India Bank of Baroda Employees' Federation, the State Bank of Patiala (All Cadres) Employees Association and the Allahabad Bank Employees' Union (Calcutta) have made demands in respect of gratuity more or less similar to the demands made by the All India Bank Employees' Association. The State Bank of Patiala (All Cadres) Employees' Association desires to have the dearness allowance and dearness pay and other allowances included in the monthly pay for the calculation of gratuity.

8.13. The Central Bank of India Employees' Association, Patna, the Central Bank of India Employees' Association, Muzaffarpur, and Amritsar and the Behar Provincial Central Bank of India Employees Association at Muzaffarpur have made demands in respect of gratuity similar to the demands of the All India Bank Employees' Federation.

8.14. The Cochin Commercial Bank Employees' Association has made the following demands in connection with gratuity:—

On the death of an employee while in the service of the banks:—

One month's pay with dearness allowance for each year of service subject to a maximum of 20 months' pay to be paid to the heirs, executors, assignees or nominees.

On an employee at any time becoming incapable (physically or mentally) of further service, gratuity shall be paid at the same rate as above. On voluntary retirement or resignation of an employee after 5 years' continuous service, gratuity shall be paid at the rate of one month's pay for each year of service subject to a maximum of 20 months' pay.

On termination of his service by the Bank: after 5 years' continuous service one month's pay for each year of service. Where an employee has put in a service of over 30 years, he shall be paid an extra amount at the rate of an additional half a month's pay for each completed year of service beyond 30 years. To that extent the maximum provided in his case to be increased. Length of service shall be calculated as the total period from the day of initial appointment whether permanent, temporary or on probation) in the bank to the day of retirement from the banks service. The pay for the purpose of calculating the gratuity shall be the basic pay with dearness allowance and special allowance and officiating allowance on the basis of the salary last drawn. Full gratuity to be paid on completion of 5 years of service except in cases of retrenchment or termination of services of the employee.

The Bank will be at liberty to grant gratuity in excess of the scales set out above, in its discretion.

8.15. The Indian Banks Association has opposed the demands of the workmen and submitted that the scheme of gratuity at present in force was fair and reasonable and should not be disturbed, except for one modification sought by it, namely, that gratuity should also stand forfeited in case an employee was discharged or allowed to resign instead of being dismissed consequent upon misconduct.

8.16. The Bombay Exchange Banks Association has opposed the demands of the workmen and has submitted that as gratuity was paid for long and faithful service, it was contrary to principle that gratuity should be paid to an employee on voluntary retirement or resignation after completion of five years of service. It has further submitted that it was contrary to principle that any income-tax payable on gratuity should be paid by the banks. It has submitted that the question of compensation for the late introduction of the provident fund or the employees not being permitted to join the provident fund on confirmation was thoroughly investigated by the Sastry Tribunal which laid down additional gratuity by way of compensation and the quantum provided, namely, half a month's salary for every completed year of service for which an employee did not enjoy the benefits of provident fund after confirmation was quite adequate. It has claimed by way of clarification that the method of calculating additional gratuity of employees who had been denied the benefit of provident fund on confirmation should be the same as that for late introduction of provident fund, the length of service to be counted being from the date of confirmation to the date of the commencement of provident fund contribution.

8.17. The State Bank of India has contended that this Tribunal has no jurisdiction to entertain the demands for gratuity against it. Without prejudice to this contention, it has stated that gratuity rules as applied to the State Bank employees were the result of Tribunal's awards and did not impose a ceiling on gratuity, and that the rules were excessively generous and much better than those applicable in other banks. It has further stated that the gratuity rules as framed by the Sastry Tribunal and modified by the Labour Appellate Tribunal were unduly onerous inasmuch as they did not provide (except in the case of voluntary resignation) for a minimum period of service for entitlement of gratuity. It has contended that it was contrary to principle to pay gratuity for short service and that a demand for a full or any gratuity on voluntary retirement or resignation or cessation of service even for misconduct after five years' service or after any period of service was unjustified. It has further pleaded that it was contrary to principle that the State Bank or any employer should be called upon to bear income-tax payable on any gratuity paid to an employee.

8.18. It has submitted that this Tribunal should "put a ceiling on gratuity and gratuity should be payable after a proper and reasonable period of faithful service and only if the employment terminates for reasons beyond the control of the employee and in no case of misconduct of the employee."

8.19. The Subsidiaries of the State Bank of India have also taken the above point of jurisdiction. Without prejudice to this contention they have pleaded that in the case of those Subsidiary banks where there is a pension scheme it would not be right to introduce a gratuity scheme as that would amount to granting of three retirement benefits. While opposing the demands of workmen it has been submitted that gratuity should be payable on voluntary retirement or resignation of an employee only after 15 years service provided the retirement or resignation was for causes beyond the employees control. It has further been submitted that it was contrary to principle that any income-tax payable on gratuity should be paid by the employer.

8.20. The Bharatha Lakshmi Bank Ltd., the Gadodia Bank Ltd. and the Jaya Laxmi Bank Ltd. submit that the present scheme of gratuity should continue.

8.21. The Miraj State Bank does not have at present a gratuity scheme and says that it is beyond its capacity to institute such a scheme. It has pleaded that where a provident fund was already in existence, the institution of a fresh scheme of gratuity in the form of additional retirement benefit would depend entirely on the financial position of the industry, and has submitted that the financial position of the industry did not warrant any additional imposition in the form of a gratuity scheme.

8.22. It has been contended that this Tribunal has no jurisdiction to make an award in connection with gratuity so far as it concerns the State Bank of India in view of the provisions contained in sections 7 and 50 of the State Bank of India Act, 1955. Section 50 of the aforesaid Act, to the extent that it is relevant, provides as under:—

"50. (1) The Central Board may, after consultation with the Reserve Bank and with the previous sanction of the Central Government make regulations, not inconsistent with this Act and the rules made

thereunder, to provide for all matters for which provision is expedient for the purpose of giving effect to the provisions of this Act.

- (2) In particular, ** ** * such regulations may provide for—

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- (o) the establishment and maintenance of superannuation, pension, provident or other funds for the benefit of the employees of the State Bank or of the dependants of such employees or for the purposes of the State Bank, and the granting of superannuation allowances, annuities and pensions payable out of any such fund."

Clause (o) relate to those cases where a fund is sought to be established or maintained. No directions are being given by me for constituting a gratuity fund. Section 7 relates to the employees of the Imperial Bank of India whose services were transferred to the State Bank of India. It provides that such employees shall hold their service with the same rights and privileges as to pension and gratuity which they enjoyed before the transfer until the same are duly altered by the State Bank. To the extent that a legal bar, if any, exists to the making of any award in connection with any persons relating to gratuity the provisions herein contained should be deemed to be recommendatory and not mandatory.

8.23. A similar point has been raised on behalf of the Subsidiaries of the State Bank of India relying upon the provisions contained in sections 11 and 63 of the State Bank of India (Subsidiary Banks) Act, 1959. Section 63, to the extent that it is relevant, provides as under:—

- "63. (1) The State Bank may, with the approval of the Reserve Bank, make in respect of a subsidiary bank regulations, not inconsistent with this Act and the rules made thereunder, to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act.

- (2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for—

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- (o) the establishment and maintenance of superannuation, pension, provident or other funds for the benefit of the officers or employees of the subsidiary bank or of the dependants of such officers or employees or for the purposes of the subsidiary bank, and the granting of superannuation allowances, annuities and pensions payable out of any such fund;

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- (u) the persons or authorities who shall administer any pension, provident or other fund constituted for the benefit of the officers or employees of the subsidiary bank or their dependants or for the purposes of that bank; ** **."

Clauses (o) and (u) are inapplicable where no fund is sought to be constituted. Section 11 deals with those employees of the then existing banks whose services have been transferred to the subsidiary banks. It provides that such employees shall hold their service with the same rights and privileges as to pension and gratuity which they enjoyed before the transfer until the same were altered "in pursuance of any law or in accordance with any provision which for the time being governs his (their) services". To the extent, however, that a legal bar, if any, exists to the making of any award in connection with any person relating to gratuity the provisions herein contained should be deemed to be recommendatory and not mandatory.

8.24. Under the provisions of the Sastry Award as modified, the scheme for payment of gratuity is linked up with pay, the expression 'pay' being defined as being the average of the basic pay and special allowance and officiating allowance payable during the twelve months next preceding death, disability, retirement, resignation or termination of service, as the case may be. It is contended that gratuity should be paid not on the basis of such average but on the basis of the last pay drawn by the employee concerned. In my view, the provision contained in the Sastry Award is less susceptible to abuse than the provision which is demanded. In my view, there is no necessity for making any change as demanded. Under this award, the scales of pay and the scheme of dearness allowance have been altered and the amounts of basic pay and special allowances payable to workmen have been increased. In order that an unduly large

burden may not be imposed upon banks and the burden imposed may remain within the limits of the banks' capacity to pay, I direct that for the purpose of calculation of gratuity, "basic pay" for all classes of banks under this award, except the banks in the Excepted List, shall be deemed to be 80 per cent of that provided under this award so far as workmen other than those belonging to the subordinate staff are concerned, and shall be deemed to be 75 per cent of that provided under this award so far as members of the subordinate staff are concerned. As regards the banks in the Excepted List, for the purpose of calculating gratuity for workmen other than those belonging to the subordinate staff, the basic pay shall be deemed to be 90 per cent of that provided under this award and for members of the subordinate staff, the basic pay shall be the same as is provided under this award. For the purpose of calculating gratuity, the special allowance and officiating allowance for workmen employed in all banks shall be the same as provided under this award.

8.25. It is next contended that there should be a uniform provision in connection with gratuity applicable to all classes of banks. It is urged that different scales of pay have been provided for different classes of banks and that there is no necessity for providing for different maxima for the different classes of banks. The Sastry Tribunal has provided different maxima for different classes of banks, taking into account the paying capacity of the banks, in connection with a second retiring benefit which it was providing. As a result of the provisions which I am making under this award, the burden on banks on account of gratuity will considerably increase. Keeping in view the burden which I am imposing upon the banks, I am providing the same maxima for banks falling within A, B and C Classes under this award as were provided by the Sastry Award for A, B and C Class banks under its Award. As banks falling within original Class D will now be included in Class C, the maximum provided in their case will automatically stand increased. Banks in the Excepted List for this purpose are treated as falling in Class C.

8.26. The State Bank of India has contended that it should not be under any obligation to pay gratuity without a ceiling thereon. The State Bank of India has been placed in Class A. It cannot be treated for the purpose of payment of gratuity in a manner different from the banks falling within that class. It is, however, open to any bank to pay a larger sum by way of gratuity than is provided under this award. The State Bank will be at liberty, but will not be compellable, to pay gratuity larger than the one provided under this award save and except in such cases, if any, where the bank may be under a statutory obligation to pay the same.

8.27. A claim has been made that gratuity should be payable on voluntary retirement or resignation of an employee only after fifteen years' service, and that too if the retirement or resignation was for causes beyond the employee's control. The employees, on the other hand, have urged that the provision contained in the Sastry Award that gratuity should become payable on voluntary retirement or resignation of an employee after ten years' continuous service should be altered so as to reduce the period of ten years to five years. In my view, no case has been made out for any change by any of the parties.

8.28. On behalf of some of the banks it has been claimed that the amount of gratuity should not become payable in cases where an employee is discharged consequent upon his misconduct or is allowed to resign instead of being dismissed consequent upon misconduct. This right has been claimed only in case of those persons who are otherwise liable to be dismissed for misconduct. This demand has been opposed by the employees. The punishment of discharge may be inflicted upon a person where a bank does not seek to impose the extreme penalty of dismissal. Similarly, a person is allowed to resign in cases where a bank does not wish to inflict the highest penalty. Deprivation of gratuity is an extreme step and a workman should be deprived of his gratuity only in extreme cases where the proper punishment to be inflicted is nothing short of dismissal. Having considered all aspects of the matter, in my view, no case is made out for an increase in the number of circumstances under which a workman may not be paid gratuity. I am unable to accede to this demand.

8.29. It is submitted on behalf of some of the banks that the directions contained in the Sastry Award relating to payment by banks of income-tax and super-tax, if any, on the amount of gratuity are contrary to principle and contrary to law. My attention was drawn to the provisions regarding the prohibition

of tax-free payments contained in section 200 of the Companies Act, 1956, which lays down as under:—

"200. *Prohibition of tax-free payments.*—(1) No company shall pay to any officer or employee thereof, whether in his capacity as such or otherwise, remuneration free of any tax, or otherwise calculated by reference to, or varying with, any tax payable by him, or the rate or standard rate of any such tax, or the amount thereof.

Explanation.—In this sub-section, the expression "tax" comprises any kind of income-tax including super-tax.

(2) Where by virtue of any provision in force immediately before the commencement of this Act, whether contained in the company's articles, or in any contract made with the company, or in any resolution passed by the company in general meeting or by the company's Board of directors, any officer or employee of the company holding any office at the commencement of this Act is entitled to remuneration in any of the modes prohibited by sub-section (1), such provision shall have effect during the residue of the term for which he is entitled to hold such office at such commencement, as if it provided instead for the payment of a gross sum subject to the tax in question, which, after deducting such tax, would yield the net sum actually specified in such provision.

(3) This section shall not apply to any remuneration—

(a) Which fell due before the commencement of this Act, or

(b) which may fall due after the commencement of this Act, in respect of any period before such commencement."

Reference was made in this connection to a decision of the Supreme Court in the case of the State Bank of India and others and their workmen, reported in 1959(II), Labour Law Journal, page 205 where the expression "remuneration" as used in the then existing section 10 of the Banking Companies Act came up for consideration and the Supreme Court observed that the word "remuneration" was used in that section in the widest sense. Reliance was also placed on the provisions of section 7 of the Indian Income-tax Act, 1922, whereunder the head "salary" has been shown to include any pension or gratuity. My attention was also called to the provisions of the Income-tax Act, 1961, wherein it is, *inter alia*, provided as under:—

"10. In computing the total income of a previous year of any person, any income falling within any of the following clauses shall not be included ** **:

(10) ** ** ** or any other gratuity not exceeding one-half month's salary for each year of completed service, calculated on the basis of the average salary for the three years immediately preceding the year in which the gratuity is paid, subject to a maximum of twenty-four thousand rupees or fifteen months' salary so calculated, whichever is less."

The expression "salary" in this section is not confined to basic wages. A question has been debated as to whether gratuity should be regarded as constituting remuneration within the meaning of section 200 of the Companies Act, 1956. Having regard to the view which I am taking it is not necessary for the purpose of this reference to decide this point. Having regard to the policy of the legislature underlying the aforesaid section 200 and considering the fact that under the Income-tax Act, 1961, payment of gratuity to the extent specified in section 10 is not liable to be taken into account in computing the income of a person and taking all circumstances into consideration, I am of the view that the provisions of the Sastry Award in this connection are not warranted. I accordingly direct that the banks will not be under an obligation to bear the amount of income-tax or super-tax, if any, payable on the amount of gratuity payable in connection with a workman.

8.30. I accordingly make an award in connection with gratuity as under:—

8.31. Gratuity shall become payable (i) on the death of an employee whilst in service of the bank, the amount of gratuity being payable to the heirs, executors, administrators or assigns of the employee or, in case he has executed a nomination paper in the form prescribed by the bank to the nominee of the employee; (ii) on an employee becoming physically or mentally incapable of further service or on termination of his service by the employer; (iii) on voluntary retirement or resignation, after ten years' continuous service.

8.32. In connection with an employee serving in a A Class bank the amount of gratuity shall be equal to one month's pay for each completed year of service subject to a maximum of fifteen months' pay. In connection with an employee serving in a B Class bank the amount of gratuity shall be equal to one month's pay for each completed year of service subject to a maximum of twelve months pay. In connection with an employee serving in a C Class bank including a bank in the Excepted List the amount of gratuity shall be equal to one month's pay for each completed year of service subject to a maximum of nine months' pay. Where, however, a workman employed in any of the aforesaid banks has put in a service of over thirty years, an extra amount by way of additional gratuity will become payable at the rate of additional half month's pay for each completed year of service beyond thirty years. To that extent the maximum provided under the aforesaid clauses will stand increased.

8.33. The length of service shall be calculated as the total period from the day of initial appointment (whether permanent, temporary or on probation) in the bank to the day of cessation of the bank's service. In cases where employees formerly employed in areas now forming part of Pakistan, have been re-employed in India after 15th August 1947, even though there might be a break in their service the aggregate of the period of service in both areas should be taken as the total period of service.

8.34. The pay for the purpose of calculating gratuity shall be the average of the basic pay and special allowance and officiating allowance payable during twelve months next preceding death, disability, retirement, resignation or termination of service, as the case may be.

8.35. For the purpose of calculation of gratuity—basic pay for all classes of banks under this award, except the banks in the Excepted List, shall be deemed to be 80 per cent of that provided under this award so far as workmen other than those belonging to the subordinate staff are concerned, and shall be deemed to be 75 per cent of that provided under this award so far as members of the subordinate staff are concerned. As regards the banks in the Excepted List, for the purpose of calculating gratuity for workmen other than those belonging to the subordinate staff the basic pay shall be deemed to be 90 per cent of that provided under this award and for the members of the subordinate staff the basic pay shall be the same as is provided under this award. For the purpose of calculating gratuity, the special allowance and officiating allowance for workmen employed in all banks shall be the same as provided under this award.

8.36. Gratuity should be paid to a workman even if he enters the service of another bank, notwithstanding any condition to the contrary in any scheme.

8.37. The banks will be at liberty to pay gratuity in excess of what is herein provided.

8.38. Income-tax and super-tax, if any payable on the amount of gratuity will not be borne by the bank.

8.39. Where there is a pension scheme in existence the workmen will have to choose between the scheme of gratuity under this award and the bank's pension scheme unless any bank desires to give the benefit of both to the workmen. It is not the intention of this Tribunal to replace a more favourable pension schemes wherever it exists by the scheme of gratuity under this award or provide compulsory gratuity in addition to pension as a third retiring benefit.

8.40. The Bombay Exchange Banks' Association has submitted that I should not give any directions as regards the Exchange Banks regarding pension and gratuity "save that at the time of retirement an employee shall have the right to opt for the bank's pension or retiring allowance scheme or the 'award prescribed gratuity'." I direct that so far as Exchange Banks are concerned, an employee will have the right to opt for the bank's pension or retiring allowance scheme or the gratuity prescribed under this award at the time of cessation of his employment with the bank. As regards banks other than the Exchange Banks which have pension or retiring allowance scheme, an employee will have a right to exercise the option in accordance with such rules as may be provided by the bank concerned and in the absence of any rules, at the time of the cessation of employment. In the case of the death of an employee the option will be liable to be exercised by his legal representatives.

8.41. Under the provisions relating to provident fund, I have directed that those banks which have not established any provident fund, should do so within a period of six months from the date of the publication of this award. There may be workmen who may have put in several years of service before they become entitled to receive the benefit of the provident fund, and their case requires special consideration. The Sastry Tribunal had to deal with a similar situation and the remedy found by the Sastry Tribunal was to provide for additional gratuity for such persons. I direct that where there has been no provident fund scheme in existence prior to the date of this award an additional gratuity calculated at the rates mentioned in this chapter should be paid to workmen and that for this purpose, their length of service should be computed at half the number of full years of completed service from the day of initial appointment (whether permanent, temporary or on probation) in the banks concerned, till the date of introduction of the provident fund scheme.

8.42. In a case where there is an existing provident fund but a workman has not been allowed to join such fund after his confirmation, he should be given an additional gratuity at the rate mentioned in this chapter for the period commencing from the date of his confirmation to the date of his joining the fund, the length of service being calculated for this purpose to the nearest full year. The State Bank of India Employees Association (Bengal Circle) has made a claim for the refund of five per cent contribution to the pension fund made by the employees of the bank before such contribution was discontinued as a result of the directions given under the Sastry Award. In the alternative, it has claimed that a special gratuity may be paid equivalent to the amount standing to the credit of an employee in the said pension fund. The State Bank of India has opposed this demand. A similar claim was made before the Sastry Tribunal, but it appears that the same was not pressed by Mr. Niren De from Calcutta who argued the matter for and on behalf of the employees. This contribution was made by the employees many years back under a contributory pension scheme. Apart from the question of my jurisdiction to deal with the demand, in my view, the employees are not entitled to any of the reliefs claimed in connection therewith.

(ii) Pension Scheme

8.43. Most of the banks before me have no pension schemes. Various exchange banks have pension schemes which are applicable to all their workmen not only in India but also elsewhere. The Sastry Tribunal has observed that its object in making the gratuity scheme also applicable to such banks was only to ensure that so much at least of a retiring benefit either by way of gratuity or by way of participation in a pension, should be available to the workmen as a minimum. It stated that it was to be distinctly understood that a person who was awarded a pension and elected to get it, could not claim the benefit of payment by way of gratuity.

8.44. In connection with the Imperial Bank of India whose pension scheme provided for a compulsory contribution of five per cent of pay by workmen, the Sastry Award as modified provided as under:—

"The contribution of 5 per cent by the workmen to the Pension Fund shall cease, and the Bank is directed to take the steps necessary to ensure this. The employees shall receive the existing pension benefits without payment of any contribution. If any contribution is realised from any workman employee towards the Fund after the pronouncement of our Decision, the Bank is directed to pay to the workman or his representative on the termination of his employment a special gratuity equal to this contribution and the interest thereon standing to his credit in the accounts of the Fund at the date of the termination of his service."

The Imperial Bank, and, thereafter its successor, the State Bank of India, is not claiming now this five per cent contribution from the workmen.

8.45. The workmen have demanded pension in addition to provident fund and gratuity.

8.46. The All India Bank Employees Association has claimed that the normal pensionable age should be 60 years, that maximum pension should be Rs. 750 per mensem, that pensionable service of an employee should be counted from the date of his appointment, that the minimum age limit for the purpose should be 18 years, that in calculating pension, the pay last payable to an employee should be the basis, that the amount of pension should be calculated on number

of years of service divided by 50 multiplied by pay last payable (inclusive of special allowance and officiating allowance), and that the benefit of pension must be guaranteed for five years, i.e., if a pensioner dies before drawing pension for less than five years, his heirs, assignees or nominees should draw the same pension until completion of five years, with the exception that if an employee retired on grounds of health before reaching the age of 60, he should be eligible to proportionate pension provided he had served for at least 10 years. It has further claimed that in case of an employee's death while in service, his legal heirs should be paid pension at the rates prescribed above for the period indicated below:—

Length of service	Period for which payable.
(a) 10 years	2 years
(b) Exceeding 10 years but below 15 years	3 years.
(c) Exceeding 15 years but below 20 years	4 years
(d) Exceeding 20 years	5 years.

It has claimed that a pensioner should have the right to commute any part of his pension and has demanded that dearness allowance at the prescribed rates should be paid on pensions.

8.47. The All India Bank Employees Federation has claimed that all permanent employees, including part-time employees, should be eligible for pension, that pensionable service of an employee should be counted from the date of his appointment, that in calculating pension last wages drawn by an employee be taken into consideration, that the amount of pension be calculated on number of years of service divided by 50 and multiplied by the last total salary drawn, that pension benefit must be granted for a minimum period of five years, that commutation of pension be allowed as per Central Government Rules and that pensioners should be allowed to accept re-employment after retirement.

8.48. The All-India State Bank of India Staff Federation has claimed a pension scheme similar to the one demanded by the All India Bank Employees Association but without mentioning the minimum pension of Rs. 750. This Federation has also claimed that a pensioner shall have the right to commute his pension as per rules applicable to the Central Government employees, and that dearness allowance should be paid on pensions at the rate of 25 per cent with a minimum of Rs. 40 to the clerical staff, etc., and Rs. 25 to the subordinate staff.

8.49. The State Bank of India Employees' Association (Bengal Circle) has made the following demands:—

"1. (a) For all permanent staff non-contributory pension is to be paid. Pension is to be calculated at half of the pay per month last drawn by an employee retiring on completion of 25 years of service, i.e., the number of years of service divided by 50 multiplied by pay last payable (including special allowance and officiating allowances).

(b) An employee shall at his option be entitled to retire after 20 years' service at proportionate pension.

2. The age for compulsory retirement would be 60 years.

3. For the purpose of pension service of an employee should be counted from the date of his appointment, irrespective of age and should not be taken at 21 years as at present. In calculating pension the pay last payable to an employee should be the basis.

4. The benefit of pension must be guaranteed for a minimum period of 5 years, i.e., if a pensioner dies before drawing pension for less than 5 years his heirs or successors or nominee will draw the same pension until completion of 5 years.

5. Commutation of pension should be according to Government rules."

Refund of Contribution to the Pension Fund made by the Employees

The amount so far contributed by each employee to the pension fund should be refunded as the pension is now non-contributory, or alternately a special gratuity

be granted and paid equivalent to the amount standing at the credit of the said Pension Fund, i.e., Imperial Bank of India Employees Pension Fund Account of the respective employees at the time of their retirement."

Death while in service

Pension-Quantum to be calculated on the basis as above, i.e., $1/50 \times \text{years of service} \times \text{total salary last drawn}$, payable to legal representatives as under:—

Length of service	Period for which Pension payable
1—10 years	2 years
Over 10 years and below 15 years	3 years.
Exceeding 15 years but not more than 20 years	4 years.
Exceeding 20 years	5 years.

8.50. A more or less similar scheme has been suggested by the State Bank of India Employees' Association (Delhi Circle).

8.51. The Cochin Commercial Bank Employees' Association has submitted the following pension scheme.

"(i) All permanent employees to be made eligible for pension.

(ii) Normal pensionable age 60 years.

(iii) Maximum pension Rs. 200.

(iv) Quantum of pension per month (a) Full pension (for service of 25 years and over) $1/60 \times \text{number of years of service} \times \text{total salary}$. (b) Proportionate pension (for service of 10 years and over but less than 25 years.)

(Years of service \times full pension calculated as above).

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Provided the retirement is not before reaching the age of 60.

Exception—If an employee has to retire on grounds of health before reaching the age of 60, he will be eligible for proportionate pension provided he has service for at least 10 years.

(v) death while in service: Pension Quantum to be calculated as in (iv) above payable to legal representative as under:—

Length of service.	Period for which payable.
(a) 10 years	2 years
(b) Exceeding 10 years but not exceeding 15 years	3 years.
(c) Exceeding 15 years but not exceeding 20 years	4 years.
(d) Exceeding 20 years	5 years.

(vi) Death within 5 years from the date of retirement.

Payment of pension, which a deceased pensioner would have received to be made payable to his legal representatives, such payments to continue until the expiry of 5 years from the date of retirement of deceased pensioner."

8.52. The State Bank of India Staff Union, Andhra Pradesh, Vijayawada, the State Bank of Patiala (All Cadres) Employees Association, the Employees Association of the Union Bank of Bijapur and Sholapur Ltd., the Indian Overseas Bank Employees Union, Madras, the All India Bank of Baroda Employees Federation and the Allahabad Bank Employees Union, Calcutta have made a demand for a pension scheme which is more or less similar to the pension scheme demanded by the All India Bank Employees Association.

8.53. The Central Bank of India Employees Association, Patna, the Central Bank of India Employees' Association, Muzaffarpur and the Central Bank of India Employees' Association, Punjab at Amritsar as also the Behar Provincial Central Bank Employees Association at Muzaffarpur have asked for a pension scheme which

is the same as the scheme demanded by the All India Bank Employees Federation, except that the said Associations at Patna and Muzaffarpur have in case of death of an employee claimed pension for a minimum period of 12 months.

8.54. The Vadodra Rajya Bank Nokar Sangh has given no particular pension scheme but it would also like to have one as it considers that the banking industry is now well-established and financially more sound and is in a position to give both pension and gratuity.

8.55. The Indian Banks Association has strongly opposed the introduction of any pension scheme where no such scheme is in existence. It has submitted that no case has been made out for a third retiring benefit and has pleaded that if three retiring benefits were given, the burden on the resources of banks would be crushing.

8.56. The Bombay Exchange Banks Association has characterised the demand of the workmen as extravagant and unjustified and submitted that the Tribunal should not lay down any directions regarding pension and gratuity for the employees of the Exchange Banks, save that at the time of retirement an employee shall have a right to opt for the bank's pension or retiring allowance scheme or the 'award prescribed gratuity'. It is further pleaded that pension or retiring allowance schemes of the Exchange Banks have been laid down by their head-offices abroad, and that the same should not be disturbed.

8.57. The State Bank of India has referred to the provisions of section 7(2) read with sections 33 and 50 of the State Bank of India Act, 1955, and has submitted that in view of these statutory provisions any rules to be framed or any regulations to be introduced in connection with any pension scheme require the previous sanction of the Central Government and that the State Bank had no powers and should not be directed to make any alterations in the conditions, regulations, rules or quantum of any benefits in either the pension fund of the Imperial Bank of India or in that of the State Bank of India. It has also pleaded that this Tribunal has no jurisdiction to revise the terms, conditions, rules and regulations in connection with the pension funds or to direct the introduction of any other superannuation fund or benefits. On the merits, it has contended that the State Bank's pension scheme was more generous than was justified in the light of superannuation schemes prevalent in comparable employment and has pleaded as follows:—

"Normally pension payable is limited to a maximum of 50 per cent. of the average pay, irrespective of the total service beyond 30 years. In the State Bank's Scheme, there is no such limit and, as a large majority of employees join service at an early age (though according to rules they can join the Pension Fund only on attaining the age of 21 years) and enjoy the concession granted by the Sastry Tribunal to continue in service till the completion of 58 years of age, according to the Bank's present Pension Rules, they become entitled to pension at 37/60 of the average pay and thus derive an unintended and fortuitous benefit. It may be stated that the provident fund and pension benefit extended by the State Bank to an employee amount to 18 1/3 per cent. of the employee's salary, exclusive of a further *ad hoc* contribution which the State Bank has to make of about 7 per cent. from general funds to the Pension Fund to make good the shortfall in the Fund, although based on the last actuarial valuation made in 1953. Such contribution should not exceed 5 per cent. Originally, having regard to the existence of a Provident Fund to which employers and employees contributed equally, the Imperial Bank of India had a contributory Pension Scheme, but, by the directions of the Sastry Tribunal, it was made obligatory on the bank to make the Pension Scheme non-contributory and the implementation of this direction has placed a great and unjustified strain on the State Bank." It has pleaded that in view of the high cost of the existing superannuation benefits, there was no case for any demand for further increases.

8.58. On behalf of the Subsidiaries of the State Bank of India, it is pleaded that as regards the Subsidiary Banks to which the provisions of the Sastry Award relating to gratuity were applicable it would not be right to direct the introduction of a pension scheme as that would amount to granting of three retiring benefits. It is pleaded that the pension scheme that may be existing should not be disturbed save to the extent of fixing a ceiling of one half of the average basic pay in the event of an increase in the present age of superannuation. On behalf of the State Bank of Patials in particular it has been pointed out that there are only three cases of employees who are drawing pension as otherwise there was no provision for pension in the bank. It has stated that it was not proposed to introduce such a scheme

as the benefits of provident fund and gratuity scheme were to be extended. The Allahabad Bank Ltd. which is one of the banks in which there is a pension scheme, has pointed out that this scheme has worked satisfactorily in the past 39 years and any change or variation in it will tend to disrupt the system which has stood the test of time.

8.59. The Bharatha Lakshmi Bank has pleaded that smaller banks will not be able to provide pensions to their employees. The Jaya Laxmi Bank has pleaded that 'in view of the existence of provident fund, and in view of the contemplated increase in the wage structure, the question of payment of pension should not be considered. The Miraj State Bank has submitted that it is beyond its capacity to institute a pension scheme.

8.60. The demand for the conferment of three retiring benefits is not justified, having regard to all the facts and circumstances of the case. The workmen are entitled either to have gratuity or in the alternative pension or retiring allowance. Where there is not already in existence any pension scheme, no directions are given for the purpose of providing one. In cases where pension schemes or retiring allowance schemes are already in existence, a workman will have the option to choose whether he will receive gratuity or opt for the pension scheme or retiring allowance.

8.61. I shall next consider whether any direction should be given in connection with pension schemes. So far as Exchange Banks are concerned, their pension schemes or retiring allowance schemes are formulated abroad. As regards the State Bank of India and its Subsidiaries the formidable question of the jurisdiction and powers of this Tribunal arises. Having regard to all the facts and circumstances, I give no direction in connection with any scheme of pension.

8.62. The existing pension or retiring allowance schemes have been provided only by A or B Class banks. The pension or retiring allowance schemes are generally correlated to basic pay. In the case of an employee who will be governed by the scales of pay laid down in this award and who, on retirement, chooses to receive pension under the bank's pension scheme, it may become necessary for some of these banks to make suitable changes in their pension or retiring allowance schemes having regard to the new scales of pay provided by me which materially differ from the old scales of pay.

8.63. When any such change is being effected, a question may arise regarding the extent to which such change is warranted having regard to the changes made in the wage scales. As I have altered the wage scales, it would be but fair both to the banks and the workmen, that I should indicate the extent of the change that I would consider reasonable, in view of the change in the wage scales. The new scales of wages fixed by me provide not merely for a merger of considerable part of the dearness allowance but also provide for an increase in original basic wage received by workmen. Having taken all the circumstances into account, I should consider that for the purpose of calculation of pension of workmen other than those belonging to the subordinate staff basic pay may be taken to be 80 per cent. of the basic pay provided in this award, and so far as the members of the subordinate staff are concerned, the basic pay may be taken to be 75 per cent. of the basic pay provided under this award, from the date that the new scales of wages come into force. I would regard a change effected to this extent in the pension or retiring allowance schemes to be reasonable. No change in respect of special allowance or officiating allowance payable under this award would be necessary.

CHAPTER IX

Item No. 7:—LEAVE RULES

9.1. The Sastry Tribunal after carefully considering the needs of the workmen and the capacity of the banks has laid down detailed rules in connection with leave. The directions so given with the modifications made therein by the Labour Appellate Tribunal, provide as under :—

(1) Existing Leave Rules

General

(1) An employee who desires to obtain leave of absence, other than casual leave, shall apply in writing to the manager or any other officer appointed for the purpose. Such application for leave shall be made not less than one month before the date from which the leave is to commence, except in urgent cases or unforeseen circumstances including illness when it is not possible to do so. The Manager

or the officer empowered by him in this behalf shall issue orders on such application as soon as practicable and in cases of an urgent nature immediately. If the leave asked for is granted, an order showing the date of commencement of the leave and the date on which the employee will have to resume duty shall be issued to the employee.

(2) If an employee after proceeding on leave desires an extension thereof, he shall make an application in writing to the Manager or other officer appointed for the purpose. Such application shall state the full postal and telegraphic address of the employee and shall be made in sufficient time to enable the management to consider the application and send a reply to him before the expiry of the leave desired to be extended. A written reply either of the grant or refusal of extension shall be sent to the employee at the address given by him if such reply is likely to reach him before the expiry of the leave originally granted to him.

(3) If leave is refused or postponed, the reason for the refusal, or postponement, as the case may be, shall be mentioned in the order, and a copy of the order given to the applicant.

(4) No leave or extension of leave shall be deemed to have been granted unless an order to that effect is passed and communicated to the employee concerned.

(5) Leave of all kinds cannot be claimed as of right. When the exigencies of the service so require, discretion to refuse or revoke leave of any description is reserved to the authority granting it, and an employee already on leave may be recalled by that authority when it considers this necessary in the interest of the service. When an employee is called back from leave, the bank will pay his travelling expenses to and from the place where he was spending his holiday; this does not include the travelling expenses of his family.

(6) Gazetted holidays (that is Bank holidays under the Negotiable Instruments Act) other than Sundays shall not be prefixed or affixed to any leave without the sanction of the competent authority having been first obtained. An employee who overstays his leave (except under circumstances beyond his control for which he must tender a satisfactory explanation) shall not be paid his pay and allowances (other than house rent allowance based on pay, i.e. basic pay, officiating and special allowances, if any, last drawn) for the period he overstays and shall further render himself liable to such disciplinary action as the management may think fit to impose.

(7) Leave earned by an employee lapses on the date on which he ceases to be in service. Where an employee's services are terminated owing to retrenchment he shall be paid his pay and allowances for the period of privilege leave at his credit.

(8) Unless he is permitted to do so by the authority which granted his leave, an employee on leave may not return to duty more than fourteen days before the expiry of the period of leave granted to him.

(9) The first day of employee's leave is the working day succeeding that upon which he makes over charge. The last day of an employee's leave is the working day preceding that upon which he reports his return to duty.

(10) An employee shall, before proceeding on leave, intimate to the competent authority his address while on leave, and shall keep the said authority informed of any change in the address previously furnished.

(11) An employee on leave shall, unless otherwise instructed to the contrary, return for duty to the place at which he was last stationed.

(12) The competent authority may require an employee who has availed himself of leave for reasons of health to produce a medical certificate of fitness before he resumes duty even though such leave was not actually granted on a medical certificate.

(13) Leave may not be granted to an employee under suspension or against whom proceedings are pending.

(14) Employees on privilege, sick, maternity or quarantine leave shall be entitled to allowances.

(ii) **Privilege Leave**

(1) The amount of privilege leave earned shall be one month for completed service of 11 months for banks in Classes "A" and "B" and $\frac{3}{4}$ of a month for completed service of $11\frac{1}{2}$ months in the case of banks in Classes "C" and "D". Privilege leave will be cumulative upto a maximum of three months.

(2) If leave applied for by a workman has been refused, such workman will be entitled to accumulate leave in excess of the maximum of three months prescribed upto the date from which leave has been applied for or by the date on which the bank is in a position to grant him leave, whichever is earlier.

(3) The privilege leave due to an employee is the period which he has earned diminished by the period of leave actually taken.

Leave salary

An employee on privilege leave shall draw a leave pay equal to his average pay i.e. the average monthly pay (earned while on duty) during the twelve calendar months immediately preceding that in which the employee proceeds on leave. Pay means the aggregate of basic pay, dearness allowance, officiating allowance and special allowance, if any.

Casual, Quarantine, Sick, Extraordinary and Maternity Leave

(1) *Casual leave.*—An employee shall be entitled to casual leave upto a maximum of twelve days in each calendar year provided that not more than four days may be taken continuously and provided that gazetted and public holidays and Sundays may not be combined with such leave in such a way as to increase the absence at any one time beyond six days but if extended beyond these limits it shall be treated as privilege leave in respect of the entire period. Casual leave may not be granted in combination with any other leave.

(2) *Casual leave shall be non-cumulative.*—Ordinarily the previous permission of the sanctioning authority shall be obtained before taking such leave. When this is not possible the said authority shall as soon as practicable be informed in writing or if writing is not possible orally or through any person of the employee's absence from work, reason thereof and of the probable duration of such absence. A workman on casual leave shall be entitled to pay and allowances as if he was on duty.

(3) Casual leave is only intended to meet special or unforeseen circumstances for which provision cannot be made by exact rules. Gazetted and public holidays except Saturdays and Sundays shall not be prefixed or suffixed to casual leave without the previous permission of the officer granting such leave.

(4) *Quarantine leave.*—In case an employee is absent from duty on account of quarantine, the bank may, at the request of the employee, treat such absence up to a maximum of three months as privilege or sick leave if such leave is otherwise permissible.

(5) *Sick leave.*—During the full period of his service an employee shall be granted sick leave on medical certificate at the rate of one month for each year of service for a period not exceeding twelve months, and the manager or other officer appointed for the purpose may grant additional sick leave, if considered advisable in the bank's interest, in special cases. The medical certificate should be from one acceptable to the bank.

(6) Sick leave shall be on half average pay which shall be reduced to one quarter of average pay after twelve months:

Provided that where an employee has served the bank for at least a period of five years he may, if he so requests, be permitted to avail himself of sick leave on full pay up to a maximum period of six months during the full period of his service, such leave on full pay being entered as twice the amount of leave taken in his sick leave account.

(7) *Extraordinary leave.*—Extraordinary leave may be granted to an employee when no ordinary leave is due to him. Except in exceptional circumstances, the duration of extraordinary leave shall not exceed three months on any one occasion and twelve months during the entire period of an employee's service.

(8) A competent authority may grant extraordinary leave in combination with, or in continuation of leave of any other kind admissible to the employee.

(9) No pay and allowances are admissible during the period of extraordinary leave and the period spent on such leave shall not count for increments:

Provided that, in cases where the sanctioning authority is satisfied that the leave was taken on account of illness or for any other cause beyond the employee's control, it may direct that the period of extraordinary leave may count for increments.

(10) *Maternity leave*.—Maternity leave which shall be on average pay shall be granted to a female employee of the bank for a period not exceeding three months on any one occasion and twelve months during the entire period of an employee's service.

(11) A competent authority may grant leave of any other kind admissible to the employee in combination with, or in continuation of maternity leave if the request for its grant is supported by sufficient medical certificate.

9.2. On behalf of the workmen, various demands have been made in connection with leave by associations, federations and unions of workmen. The main demands are as under:—

General

"Leave applied for should be deemed to have been sanctioned unless the employee is advised otherwise in writing by the management."

"Rules regarding all types of leave should be uniform in all banks."

"All leave should be a matter of right."

Privilege leave

"Privilege leave at the rate of one day for every eleven days' service."

There are also demands made for privilege leave at the rate of one day for every 10 days service and one month for every 11 months service. Employees should be allowed to accumulate privilege leave up to three months. There are also demands for accumulation of this leave up to 4 months and 6 months. An employee whose leave is refused should have the right to accumulate leave in excess of the maximum of three months. Leave should accrue due even when an employee is on leave. Privilege leave should not be refused for exigencies of work or otherwise. No employee should be recalled back from leave. If an employee is called for duty before the expiry of his leave, he should be allowed travelling allowance and be paid wages in lieu of due leave which is refused or such leave should be allowed to be accumulated beyond other limits. Ten days' notice should be required for grant of privilege leave except in urgent cases and the bank should inform the employee in writing 7 days before the commencement of his leave.

The Vadodra Rajya Bank Noker Sangh has made the following demand:—

"In the event of termination, retrenchment, or closing of a branch or discharge without any fault on the part of the employee he shall be paid cash proportionately in lieu of privilege leave in proportion to the period he has served."

Casual Leave

"Fifteen days casual leave in a calendar year. Six days casual leave may be availed at a stretch which, with prefixing or suffixing, of Sundays and holidays, may extend up to 10 days."

"Sundays and other public holidays falling within a period of casual leave should not be counted as part of the casual leave."

There is one association which has asked for casual leave of 20 days in a calendar year. There is another association which has asked for 10 days casual leave at a stretch excluding Sundays and holidays.

Quarantine Leave

Quarantine leave should be granted on full pay and allowances on medical advice, apart from sick or privilege leave. One union has demanded this type of leave when a family member of the employee is suffering from any infectious disease.

Sick Leave

All categories of workmen should be granted thirty days sick leave for every year of service with full pay and allowances with a maximum of 12 months during the service period. In case of prolonged illness further sick leave on half pay and full allowance should be allowed up to six months. Service period should be counted from 1950 for the purpose of earning sick leave. There is also a demand for one month's sick leave for every year of service with full pay, with a right to accumulate it up to 24 months.

Extraordinary Leave

When no leave is due to a workman, extraordinary leave on grounds of continued illness should be granted on loss of pay up to a period of six months. There is also a demand that Extraordinary leave should be given up to one year on loss of pay when no leave is due and that the period of leave should be counted for the grant of increments in cases of illness or other causes beyond the employee's control.

Maternity Leave

This leave should be granted to female employees on full pay and allowances at the rate of three months on every confinement.

Special Leave

Special leave should be allowed on full pay and allowances to the union representatives and office bearers of various unions, associations and federations and/or their constituent units to enable them to attend meetings and conferences of the unions and their central organisations and to participate in tribunals' and conciliation proceedings. A similar demand has been made for participation in proceedings before labour courts and enquiry commissions and for attending meetings with representatives of management or "for any other *bona fide* purposes".

The All India Bank Employees Federation has made a demand that the office bearers and representatives of the Federation and its affiliated units be allowed one month's special leave to attend meetings, conferences and delegations, etc. in a year.

Representatives of the union and/or of the federation should be given 30 days special leave with full pay and allowances in a year for the trade-union activities.

"Foreign Service Facilities" to the chief executive office-bearers of the Union at request should be granted.

Leave preparatory to retirement

Employees should be allowed to avail themselves of their due privilege leave prior to retirement. On refusal of leave they should be paid salaries and allowances for the leave period. A demand has been made that 3 months leave over and above the leave at credit should be allowed before retirement. All employees should be granted a furlough leave of six months with full salary and allowances prior to retirement.

Study Leave

An employee may be granted study leave to pursue higher studies up to two years in every special circumstances.

Leave Salary

Leave salary shall be paid on the basis of the salary payable immediately before going on leave. Leave should be on full pay and not on average pay. No special allowance attached to the salary like dearness allowance or house rent allowance or special allowance or local allowance should be deducted during the period of privilege leave, sick leave, casual leave or any type of leave.

9.3. The demands made by the employees have been generally opposed by banks. Some of the banks have contended that the leave rules prescribed by the Sastry Tribunal were on very liberal scales and that although the banks feel

that leave entitlements should be curtailed having regard to the present needs of the nation and the industry, the banks were prepared not to insist on any curtailment as they were of the view that the basic structure of the Sastry Award should be left unchanged. They have suggested that certain directions should be given in order to prevent abuses.

9.4. The Indian Banks Association has suggested that no employee can take privilege leave on the ground of illness whenever sick leave is available. Under the Sastry Award as modified privilege leave of 1 month will be earned by an employee in "A" and "B" Class banks after he has put in eleven months of service. The Indian Banks Association submits that for calculating 11 months service all leave taken, other than casual leave, should be excluded. The Sastry Award contains a provision that where a person on casual leave combines with such leave any gazetted and public holidays and Sundays so as to increase the absence at any one time beyond six days, the entire period should be treated as a period of privilege leave. The Indian Banks Association contends that this provision enables the employee to have privilege leave without following the requisite procedure for obtaining the same and results in the splitting up of privilege leave into small bits which was not desirable both from the point of view of the employees and of the banks. It has claimed that if casual leave was extended beyond six days, then the entire period should be treated as unauthorised absence and the employee should not be entitled to any emoluments for such period. The Indian Banks Association has alleged that employees have come to look upon casual leave as something which they must take, whether the circumstances justify taking such leave or not, and that in applications for casual leave, reasons are given which are very vague. They have therefore sought directions to the effect that every employee who wants to avail himself of casual leave must in his application state clearly the reasons why casual leave is wanted, and in case of emergency where casual leave is availed of before taking prior permission, an employee must, after returning to duty, give an explanation immediately stating the reasons why casual leave was taken, and that if on scrutiny of the reasons given, the management came to the conclusion that the grounds on which such leave was taken were unjustified, the management should be allowed to treat such absence as unauthorised absence for which the employee concerned will not be entitled to receive any emoluments. The Indian Banks Association has under item No. 20 claimed that leave rules should be more restricted in rural areas than those prescribed for urban areas so that leave entitlements in branches in rural areas may be three-fourths of those which may be prescribed in other areas.

9.5. The Bombay Exchange Banks Association has contended that the leave benefits available to employees under the existing award were over-generous. In connection with casual leave the Association has stated that "considering the low number of working hours of bank employees and the tendency of the employees to treat casual leave as a matter of right and thereby abuse it, the total number of days' casual leave that may be granted to an employee should not exceed 6 in a year". As regards privilege leave, it is submitted that the same should be on a graduated basis as follows:—

- | | |
|--|--------------------|
| (a) For persons with service up to 5 years .. | .. 2 weeks a year. |
| (b) For persons with service up to 10 years .. | .. 3 weeks a year. |
| (c) For persons with over 10 years' service .. | .. 4 weeks a year. |

It is further submitted that it should be provided that privilege leave could only be accumulated over a period of two years whereafter there should be no further accumulation, that privilege leave should not be availed of by any employee on more than two occasions in any year, that it should be open to the management to call upon any employee to go on privilege leave at any time in its discretion to suit the exigencies of service and that an employee wishing to curtail leave sanctioned to him may do so only with the prior approval of the management. It is further submitted that in order to obviate the chances of a dispute arising, it should be made explicit that no privilege leave or sick leave shall accrue to an employee in respect of leave other than casual leave availed of by him. As regards sick leave, the Bombay Exchange Banks Association submits that it should be at half pay only and should accrue at the rate of 30 days for every year of active service after confirmation subject to a maximum of 9 months or 270 days, that commutation of sick leave on the basis of full pay should not ordinarily be permitted, that management may, however, at its sole discretion, permit commutation in cases of definite hardship, proved to its satisfaction that applications for sick leave should invariably be accompanied by a certificate from

a registered medical practitioner and that where there was an authorised doctor appointed by the bank, application for sick leave must be recommended by him. It is submitted that the demand of the workmen for retroactive effect from 1950 for computing service for the purpose of earning sick leave was unreasonable. In connection with maternity leave, the Bombay Exchange Banks Association submits that the award of such leave would discourage employment of women and should not be granted, that the matter should be left to the discretion of the management and that, in any event, such leave should be on half pay only. In connection with the demand for special leave it is submitted that it is not an industrial dispute and must be left to the discretion of the management. It is further submitted that unauthorised absence from duty by an employee should automatically result in the forfeiture of all benefits accruing under the terms and conditions of service during the period of such absence.

9.6. The State Bank of India has contended that the demand in connection with casual leave disregarded the very nature and purpose of the leave and the principles behind granting such leave, that casual leave could not be taken as a matter of right and was meant to be taken in emergent and unforeseen circumstances, that it was contrary to principle to grant six days' casual leave at a stretch and that it was the State Bank's experience that a great deal of difficulty was caused by employees availing themselves of casual leave without prior sanction. It is submitted that there should be no increase of the quantum of casual leave, that the workmen need to be impressed about the true nature and purpose of such leave and should avail of it only in emergent and unforeseen circumstances and that directions should be given that any habitual deviation from this principle would amount to misconduct. It has submitted that privilege leave should not be taken more than twice a year and after an interval of not less than three months between the leaves. In connection with maternity leave, it has submitted that social and economic conditions in the country demanded that there should be a restriction on the number of occasions on which such leave was granted. In connection with special leave, it is submitted that the demand in connection therewith did not constitute an industrial dispute and that an Industrial Tribunal could not direct granting of such special leave.

9.7. The Miraj State Bank has submitted that its leave rules are governed by an agreement with the workers which provide generous conditions of service in respect of privilege leave, casual leave and sick leave and no further alteration in that agreement was called for on the merits or was permissible in law. The bank is also against the grant of any other form of leave apart from privilege leave, casual leave and sick leave.

9.8. The Sastry Tribunal has provided that when an employee has gone on leave, unless he was permitted to do so by the authority which granted his leave, he may not return to duty more than fourteen days before the expiry of the period of leave granted to him. In effect, this provision confers a right upon an employee to return to duty at his sweet will and pleasure without any permission before the expiry of the period of leave granted to him, provided he returns not more than fourteen days before the expiry of such leave. When an employee goes on fairly long leave, arrangements may have to be made by the bank concerned for the disposal of work during his absence. An employee, by returning to duty at any time within 14 days prior to the expiry of the period of leave without prior permission, may disturb the arrangements made by the bank for the period of leave taken by the employee. He cannot therefore have an unfettered right to return back to duty. It is possible that the bank might not have sanctioned the leave if it had been asked for a shorter period than the one for which leave was actually demanded. Under the provisions of the Award, as it stands, a workman may be enabled to convert a long leave into a short one. In a proper case, a bank may, having regard to the circumstances under which a workman may seek to return earlier, permit a workman to return before the expiry of the period of his leave, but there should be no provision which should confer upon a workman a right so to return. The provisions of the Sastry Award therefore need to be modified. Clause 8 of the general rules set out above will therefore be substituted by the following clause:—

- (8) Unless he is permitted to do so by the authority which granted him leave, an employee will not be entitled to return to duty before the expiry of the period of leave granted to him.

9.9. The Sastry Award provides that an employee already on leave may be recalled when the authority granting the leave considers this to be necessary in the interests of the service. The workmen have demanded that no employee should be

recalled back from leave. The Labour Appellate Tribunal has mitigated the hardship incidental to such recall by providing that when an employee is recalled, the travelling expenses of the workman to and from the place where the workman was spending his holiday should be provided by the bank. This would not cover the travelling expenses of the members of the family of such workman. An employee when going on leave may have taken the members of his family also with him and they may have to come back with him. It is but fair that when his leave is cut short in the interests of the work of the bank, the expenses incurred by him for taking his wife and his children ordinarily residing with and wholly dependent upon him from the place of work to the place where he might have gone and of bringing them back should be provided by the bank. I accordingly direct that when a workman who has gone on leave is recalled back from leave, the bank should pay to him the actual travelling expenses incurred by him on account of himself, his wife, and his children ordinarily residing with and wholly dependent on him for going from the place of work to the place where he and members of his family may be at the time of the recall and for coming back from such place to the place of work. A workman will be entitled to claim travelling expenses of his wife and children provided they have accompanied him whilst going to such place or have gone to such place within a week of his going there and have accompanied him whilst returning back from such place or have returned to the place of work within a week of his return to that place. In my view no other changes are required to be made in the aforesaid "general" rules provided by the Sastry Award as modified.

(ii) Privilege Leave.

9.10. Under the Sastry Award as modified employees in A Class and B Class banks earn privilege leave of one month for completed service of 11 months. Employees in C Class and D Class banks earn privilege leave of $\frac{3}{4}$ of a month for completed service of 11 months. It is claimed that the period during which privilege leave is enjoyed should also be counter for the purpose of calculating the period of eleven months in the case of employees of A Class and B Class banks and of 11 months in the case of employees of C Class and D Class banks. There is no merit in this claim. In my view the intention of making the aforesaid provisions was not to lay down that if a person employed in an A Class bank or a B Class bank has enjoyed one month's privilege leave and has thereafter served for 10 months he should become entitled to enjoy further privilege leave of 1 month. It was similarly not the intention that a person employed in a C Class bank or a D Class bank who has enjoyed privilege leave for $\frac{3}{4}$ of a month and has thereafter put in 10 months of service should become entitled to enjoy another $\frac{3}{4}$ of a month of privilege leave. In any event, that is not my intention and I direct that in calculating the period of eleven months of completed service by workmen in A and B Class banks under this award and for the purpose of calculating the period of 11 months service by workmen in the case of C Class banks under this award including banks in the Excepted List, the period of privilege leave enjoyed should not be counted.

9.11. The banks have claimed that as privilege leave is intended for rest and recuperation, it should not be taken in more than two instalments in a year. This demand seems to be reasonable. Banks having numerous employees may have to arrange the leave programme of the employees so as not to disturb the work of the bank. If privilege leave is taken in dribblets, it will not serve the purpose for which it is intended to be taken. I therefore direct that workmen will not be entitled to take privilege leave on more than two occasions in a year. This will not include the occasion when a workman has gone on privilege leave but has been recalled. In special circumstances an application may be made for the grant of such leave on more than two occasions in a year and it will then be in the absolute discretion of the bank concerned whether to grant such leave or not.

9.12. The provisions of the Sastry Award relating to accumulation of privilege leave beyond 3 months in cases where leave applied for by a workman has been refused require to be modified. In substitution of clause (2) under the heading "Privilege Leave" set out earlier I provide as under:—

If leave applied for by a workman has been refused, such workman will be entitled to accumulate leave in excess of the maximum of three months prescribed until such time when the bank is in a position to grant him leave.

9.13. In my view no further modifications are required to be made in connection with the provisions relating to privilege leave. The provisions about leave applicable to A Class and B Class banks under the Sastry Award as modified will

apply to A Class and B Class banks under this award. The provisions about leave applicable to C Class banks under the Sastry Award as modified will apply to C Class banks under this Award including banks in the Excepted List.

(iii) Casual Leave

9.14. In connection with casual leave, the Sastry Tribunal has already laid down that it is only intended to meet special or unforeseen circumstances for which provision cannot be made by exact rules. Some of the banks have shown that such leave has sometimes been lightly applied for or has been enjoyed without any prior intimation for reasons which cannot justify the taking of such leave. This leave is really intended to cover special, emergent or unforeseen circumstances and cannot be taken on the footing that it is the right of the workmen to take the same upto the maximum limit provided, whether such circumstances exist or not. It cannot be regarded as an accrued unconditional benefit which has to be enjoyed whether the conditions provided for its enjoyment exist or not. Any absence from duty without satisfying the requisite conditions under which such leave may be taken would justify any bank in not treating the employee as on casual leave but as being absent without leave. Even where leave has been applied for and granted and the reasons given for such leave have been subsequently found to have been falsely given, a bank would be at liberty after giving the workman an opportunity of being heard in the matter—to treat the workman as if the workman had been granted leave without pay. This will be without prejudice to any other action which the bank may, under the circumstances, be entitled to take against the workman.

9.15. A demand has been made on behalf of workmen that Sundays and other public holidays falling within the period of casual leave should not be counted as part of the casual leave. In support of this demand a reference has been made to the recommendation of the Second Pay Commission at page 48 of its report which is as under:—

“Under the existing orders, public holidays and weekly offs falling within a period of casual leave are included in the casual leave. There appears to be no valid reason why it should be so, and we recommend that such public holidays and weekly offs should not be treated as part of the casual leave.”

This recommendation of the Pay Commission has been accepted by Government and the Government employees are enjoying this facility. This provision seems to me to be fair. I direct that public holidays and weekly offs falling within the period of casual leave should not be treated as part of casual leave.

9.16. The provisions of the Sastry Award in connection with casual leave are well considered and fairly liberal and except as stated above it is not necessary to make any changes therein.

(iv) Sick Leave

9.17. In connection with sick leave, the Sastry Tribunal has laid down that ‘where an employee has served the bank for at least a period of five years, he may, if he so requests, be permitted to avail himself of sick leave on full pay upto a maximum period of six months during the full period of his service, such leave on full pay being entered as twice the amount of leave taken in his sick leave account’. At the hearing the workmen desired that the word “may” should be altered to “shall”. In order to avoid any possible dispute on the question of construction, I direct that a change be made by substituting the word “shall” for “may” in the aforesaid clause. Save as aforesaid, there does not appear to be any case made out for a change in the conditions laid down in the Sastry Award relating to sick leave.

(v) Quarantine Leave, Extraordinary Leave and Maternity Leave

9.18. No case has been made out for any change in the existing provisions of the Sastry Award in connection with quarantine leave, extraordinary leave and maternity leave.

(vi) Special Casual Leave

9.19. A demand was made before the Sastry Tribunal for the grant of special leave for office-bearers of unions and associations to carry out their trade union functions, duties and activities. It was then stated that some of the trade union officials have to attend proceedings of labour courts and tribunals and take part

in the conference of trade unions. The Sastry Tribunal held that no case had been made out for the grant of "special leave" and observed that legitimate trade union activity should be conducted out of office hours and without detriment to the interests of the bank. As regards leave for attending labour courts or tribunals, the Sastry Tribunal observed as follows:—

"... it is unnecessary to give any direction as ordinarily the court or tribunal would be in a position to give appropriate directions in respect of this demand as and when necessary."

9.20. The above observation regarding special leave for attending Labour Courts and Tribunals had been made, before the Supreme Court gave its decision in the case of *Rohtas Sugar Ltd. and others vs. Mazdoor Seva Sangh and others*, reported in 1960(I) Labour Law Journal, 567. In that case, the Supreme Court set aside the directions which had been given to the effect that workmen attending the proceedings before the Industrial Tribunal should be treated as on special leave with pay for the period of such attendance.

9.21. In connection with the demand made by the employees for special leave, it is contended by the banks that this Tribunal has no jurisdiction to deal with the matter. The aforesaid decision of the Supreme Court which is relied upon was given in a case where an Industrial Tribunal sought to give directions to a party appearing before it to grant to other parties before it, namely, workmen then appearing before it, special leave with pay for the period during which such workmen appeared before the Tribunal. That decision has no bearing on the question of the jurisdiction or the powers of an Industrial Tribunal when a dispute has been referred to it for adjudication relating to "leave rules" which would include rules relating to various kinds of leave, including special leave which may be given to workmen. In my view, I have jurisdiction to consider and decide on merits the issue whether 'special leave' should be granted to workmen or not.

9.22. The State Bank of India is actually allowing to the office bearers and committee members of three Unions of its employees a maximum of seven days special casual leave in a calendar year for the purpose of attending the annual conference of the Staff Federation and an additional leave of five days for attending the annual conference of the Circle Unions.

9.23. The Second Pay Commission has at page 418 of its report referred to the facilities enjoyed by the staff under the Ministries of Railways and Defence and the Department of Posts and Telegraphs, and observed as follows:—

- "(i) In the Railways, representatives of recognised unions etc., can be granted special casual leave without any limit (a) for meeting the representatives of the Administration and (b) for attending the annual general meetings of their respective unions."
- "(ii) In the Posts and Telegraphs Department, special casual leave may be granted for upto 20 days in a year, for (a) waiting on deputation on the Minister, heads of Departments etc., (b) for attending, in a representative capacity, all-India conference and meetings of recognised associations and unions, and (c) to office-bearers and members of executive councils of all-India unions also for attending their circle conferences. General Secretaries of all-India unions may be allowed special casual leave upto 25 days."
- "(iii) Representatives of recognised unions under the Ministry of Defence may be given special casual leave of upto 20 days in a year (a) to attend all-India meetings, and (b) to attend other meetings to which they are invited by the Ministry of Defence or other authorities under the Ministry."
- "(iv) In other cases no special casual leave is, ordinarily, granted and employees who are office-bearers of recognised unions, etc., are expected to take ordinary casual leave for work connected with their union or association activities."

9.24. The Commission has further observed as under:—

"The facilities allowed to recognised associations etc., of civil servants in the United Kingdom are far more restricted than those allowed to representatives of associations etc., under the Ministries of Railways and Defence, and the Department of Posts and Telegraphs. Special leave, or time off, with pay is usually given without restriction only for attendances at joint meetings of the two sides of the National

Whitley Council or its Committees. Even for attendants at joint meetings of the Departmental Whitley Councils or of their Committees, the cost of any special arrangements that may have to be made to cover the leave or time-off given to the employee is to be borne by the employee himself, or by his organisation. Similarly, where full day's special leave is given for other business of a staff association a deduction is made from the full pay. Though a special leave upto a maximum of 30 days may be granted in a year, the absent officer does not receive his normal pay, but only the difference between the normal pay and the actual or assumed expenditure on the arrangement necessary during his absence. Members of deputations are not allowed leave with pay except when it is agreed that the deputation will be regarded as taking the place of a special meeting of the Whitley Council."

9.25. The Commission considered that the facilities already allowed were generous and recommended that facilities broadly modelled on those provided by the Department of Posts and Telegraphs or the Ministry of Defence to their civilian employees, may be extended to other employees representing recognised service organisations.

9.26. Having regard to the fact that workmen in the banking industry have been organised on an all-India basis and there are all-India organisations to which various unions of workmen employed in banks have been affiliated, I consider it in the interests of the industry that special casual leave should be granted to the office-bearers and Executive Committee members of the organisations hereinafter mentioned in order to enable them to attend meetings and conferences. I accordingly direct that the office bearers and the Executive Committee members of the All India Bank Employees Association, the All India Bank Employees Federation and the All India State Bank of India Staff Federation, who are workmen employed in banks governed by the award should be given by the respective banks special casual leave upto 7 days in a calendar year for the purpose of attending meetings and conferences of their respective organisations. The State Bank of India and some other banks are giving special leave to office bearers and committee members of various unions. It is not intended by this award that these facilities when they are in excess of what is hereby provided should in any way be discontinued or curtailed. In this award, having regard to the limited quantity of evidence available on the subject, facilities only of a limited nature have been directed to be provided.

(vii) Study Leave

9.27. There was a demand made before the Sastry Tribunal for special leave for employees who appear for examinations conducted by universities and by the various institutes of bankers. The Sastry Tribunal, in dealing with this matter, stated that it could not grant this leave as part of its leave rules and observed that it had no doubt that the banks would sympathetically deal with individual cases on their special merits. I will only repeat what the Sastry Tribunal has said in connection with the demand of the workmen before me for the grant of study leave.

(viii) Leave Preparatory to Retirement

9.28. There was a demand made before the Sastry Tribunal for six months leave with full pay and allowances preparatory to retirement. While dealing with this demand, the Sastry Tribunal observed that the provisions for leave granted by it would cover all the just and reasonable needs of the workmen and that the workmen could, in such cases, utilise the ordinary leave accumulated by them upto three months. It however added that if the banks were not able to grant such leave owing to exigencies of the bank work, the workmen should be paid on retirement the pay and allowances for such period for which the leave was withheld. No case has been made out before me for a change in the above provisions in the Sastry Award as modified, and I give similar directions in this award. The aforesaid observations will equally apply to the demand of "furlough leave".

9.29. No case has been made out by the Indian Banks Association for reducing the leave entitlements in branches in rural areas to three-fourths of those prescribed for other areas.

9.30. By a supplementary statement, the All India Bank of Baroda Employees' Federation has demanded that employees should be entitled to avail of leave at their credit during the period of notice of resignation, that an employee should also be entitled to receive salary and allowances etc., in lieu of the leave at his credit on termination of his employment, that the bank should not be entitled to require any employee to extend the period of notice of his resignation on the ground that he had availed of leave during the notice period and that an employee should be entitled to set off his leave against the notice period of resignation.

9.31. In reply to the above demand, the Bank of Baroda has submitted that permanent employee has to give a month's notice before leaving the service of the bank, that an employee other than a permanent employee or a probationer has to give 14 days' notice that the obligation of giving notice on the bank and the employee is reciprocal, and that if an employee is allowed to avail of his leave during the period of such notice, the very purpose of notice will be defeated. The other supplementary demands are also opposed. The question relating to accumulated leave on termination of employment has already been dealt with to the extent that the termination has been brought about by the retirement of the employee. Except to the extent already provided no case has been made out in connection with these demands and the same are rejected.

9.32. Save as provided in this award, no demands made by the workmen or the banks in connection with leave rules have been granted.

9.33. I make an award in connection with leave rules in terms of the Sastry Award as modified by the Labour Appellate Tribunal's decision set out earlier, with the alterations, modifications and additions made by me as set out above. Wherever the provisions of any law applicable to any place are in conflict with the provisions herein contained, the provisions of law should be applied.

CHAPTER X

Item No. 2: HOURS OF WORK AND OVERTIME

(i) Hours of Work

10.1. As observed by the Sastry Tribunal, the nature of the work in banks differs in some important respects from the usual type of work in government offices and other commercial concerns. In banks it is necessary that a day's work should be finished in the course of the day itself with respect to most of the transactions. A good part of the business cannot be left over to be done leisurely in the succeeding days. The accounts of the constituents should be posted, checked and verified before the next day's work commences. Similarly, cash balances have to be checked and verified at the end of the day. Parties have to be intimated promptly with notices of returned cheques received from the Clearing House. These and allied matters necessitate that the day's work should be finished before the clerks are permitted to leave office. It is necessary to see that the clerical staff do not down their pens immediately on the close of the actual hours of work fixed when the day's work in respect of the above matters is not over. In dealing with the hours of work and overtime in banks these considerations must be kept in view. The Sastry Tribunal has prescribed that for the clerical staff the actual hours of work exclusive of recess period on week days (excluding Saturdays) shall not exceed 6½ hours a day and 4 hours on Saturday; that there shall be a recess for lunch which shall not be less than half an hour and not more than an hour for week days (excluding Saturdays) subject, however, to the requirements of any statutory provisions like Shops and Commercial Establishments Acts; that primarily it would be for the workmen to decide the actual length of the recess within the limits fixed above and that majority decision of the workmen in any branch or establishment was to be adopted in case of difference of opinion with the management. These directions also applied to the subordinate staff with the modification that they would be required to attend duty half an hour earlier and stay half an hour later than the normal working hours fixed for the clerical staff. The part-time employees, as well as watch and ward staff, bank employees engaged in domestic service, gardeners, sweepers, godown-keepers engaged solely for that work were excluded from the scope of these directions. The Sastry Tribunal further provided as follows:—

"The provisions of the local Shops and Establishments Acts in force in various States which are or may be made applicable to banks subject to such exemptions as have been provided for therein shall, of course,

govern the parties to this reference. If the above directions as given by us come into conflict with any such provisions or are repugnant to the same, then to the extent of such repugnancy or inconsistency with statutory provisions and to that extent only these directions must give place to the statutory provisions."

The banks were given liberty by the Sastry Tribunal to fix at their discretion the actual timing of work provided that the maximum number of hours of work fixed by the award were observed. The Sastry Tribunal felt that many types of work in a bank could not be carried within a system of fixed hours, say, between 9 A.M. to 5 P.M. For instance, the work of cash book writers, day book writers, supplementary book writers, internal audit, pass-book writing, etc. could conveniently be attended to only at different times. Despatchers will have to take up work in connection with posting of letters only after they are signed by officers. Sweeping and cleaning of bank premises or opening and locking of safe vaults may have to be done even before or after such prescribed working hours. Workmen in charge of safe vaults may have to remain beyond such hours to suit the convenience of customers. Godown deliveries may have to be made outside such hours even as desired by the borrowers. The Sastry Tribunal has in this connection observed as follows:—

"To lay down a general rule fixing the actual timing of office hours as distinct from the total number of hours for a day's work would be to ignore the realities of the situation and the exigencies of bank work of various types. It is, therefore, necessary to recognise the right of bank managements to relax the rigidity in the observance of the usual hours of work wherever it is necessary or convenient or desirable to do so."

10.2. The Labour Appellate Tribunal modified the Sastry Award by laying down that where godown-keepers were required to remain in attendance at the bank during the office hours, the directions regarding office hours and overtime were to apply to them as to other employees of the bank and that in cases where a chokidar has been employed to guard the bank's premises and he is one of the several chokidars and is kept on duty for a period of time generally about 8 hours, the hours of work should not exceed a shift of 8 hours in 24 hours.

10.3. On behalf of a large number of employees it is pleaded that a period of 6½ hours of work on week days (other than Saturdays) and 3½ hours of work on Saturdays excluding the recess period should be prescribed for all categories of workmen including the watch and ward staff and godown-keepers and that for employees working on accounting machines the working hours should be 4 hours on week days (other than Saturdays) and 2½ hours on Saturdays. There are, however, some unions which appear to be satisfied with the present hours of work which are 6½ hours on week days (other than Saturdays) and 4 hours on Saturdays. There is one union which demands only 2 hours work for the accounting machine operators on Saturdays.

10.4. The Indian Banks Association is in favour of retention of the existing provisions of the Sastry Award. It has, however, suggested that provision should be made for a recess period also on Saturdays leaving the actual hours of work as they were prescribed by the Sastry Award. It has pleaded that as regards the members of the supervisory staff drawing monthly emoluments up to Rs. 500 who, by reason of the amended definition of the term "workman" have been included in the expression "workman" directions may be given that the actual hours of work exclusive of recess period on week days (exclusive of Saturdays) should not exceed 8 hours a day and on Saturdays should not exceed 5 hours a day. It contends that there is no justification for the demand for lesser hours of work for accounting machine operators. It has pleaded that the accounting machines were provided to help the employees to avoid mental fatigue caused by routine calculations and that the operation of the accounting machines did not involve effort greater than that involved in other work done by other employees so as to warrant the reduction of hours of work.

10.5. The Bombay Exchange Banks Association has submitted that the hours of work are inadequate especially when viewed in comparison with those prevailing in other eastern countries. It has submitted that inasmuch as the Shops and Establishments Acts enacted by the various State Governments provided for a much longer duration of work daily and weekly and as the provisions contained therein were binding on the banks as on other establishments, there was no reason why a different set of rules should apply to banks in respect of hours of work. It has claimed that the hours of work and recess for lunch in respect of

maximum limits should be the same as provided in the Shops and Establishments Act applicable at the various centres. It has submitted that if the Tribunal was to lay down the hours of work on an All-India basis, they should be 8 hours per week day (excluding lunch recess) and four hours per Saturday (without a lunch recess) with a minimum of 48 hours per week before becoming eligible for overtime. It opposes the demands made by the employees on behalf of the watch and ward staff, the godown-keepers, the subordinate staff and the accounting machine operators.

10.6. The State Bank of India has submitted that the members of the subordinate staff are required to attend office a little earlier and to leave a little later than the members of the clerical staff in almost all organisations and that there was no difference in principle so far as banks were concerned. As regards the watch and ward staff, it says that by their very nature of duties, the limitation of hours demanded by the union was unreasonable and without precedent and that as a rule the local Shops and Establishments Acts exempt watch and ward staff in respect of working hours provided they were given a weekly off day. It has pleaded that a similar rule should apply to the watch and ward staff of the bank.

10.7. On behalf of the Subsidiaries of the State Bank of India, it has been pointed out that the hours of work prescribed by the Sastry Award were inadequate in case of these banks as they have to conduct Government business. These banks have also opposed the demands of the workmen that watch and ward staff, godown-keepers and subordinate staff should work for smaller number of hours. The Bharatha Lakshmi Bank submits that the hours of work as demanded by the employees do not suit smaller banks and that the hours of work prescribed under the Shops and Establishments Acts should be made applicable to D class banks. The Jaya Lakshmi Bank desires that the working hours should be raised to 8 hours on week days and 6 hours on Saturdays excluding the recess interval. On behalf of the Miraj State Bank it has been pointed out that its working hours are 11-30 A.M. to 3-30 P.M. and 4-30 P.M. to 7-30 P.M. on week days (excluding Saturdays) and 11-30 A.M. to 2-30 P.M. and 3-30 P.M. to 4-30 P.M. on Saturdays making a total of 39 hours weekly. The bank is opposed to any change in its present working hours.

10.8. Shri Sule, the learned advocate on behalf of the All India Banks Employees Association, has pleaded that Saturday is regarded as half day and if the employees are made to work for four hours on that day, it would be more than half a day. His demand is that on Saturdays the employees should work for three and a half hours which by itself is more than half the time provided under the Sastry Award, for week days other than Saturdays. In connection with this demand Shri Phadke, the learned advocate on behalf of the Indian Banks Association, has pointed out that it was not possible to have a clearing on Saturdays with only three and a half hours of work and that this difficulty was brought to the notice of the Sastry Tribunal which raised the working hours to four hours.

10.9. The working hours permissible under some of the local Shops and Establishments Acts are 48 per week and not more than nine hours per day. The working hours prescribed for the clerical staff in the banking industry under the Sastry Award, as modified are $36\frac{1}{2}$ per week. Under the Sen Award the working hours on Saturdays were fixed at $3\frac{1}{2}$ hours and the Sastry Tribunal raised them to 4 hours after considering the special circumstances shown by the banks for such a change. The daily and weekly limits prescribed by the Sastry Tribunal are far below the level of the statutory limits under the various Shops and Establishments Acts. The convenience of the public has also to be considered. No case has been made out for reducing the hours of work.

10.10. There is not much merit in the demand that the hours of work should be the same both for clerical staff and the subordinate staff, having regard to the nature of the work of the members of the subordinate staff and having regard to the fact that the presence of some of them, in any event, is necessary before the members of the other staff arrive at the premises of the bank and after the members of the other staff leave the bank. The total number of hours of work put in by the members of the subordinate staff do not compare unfavourably with the hours of work put in by similar category of employees in other industries and no case is made out for making any change in their hours of work.

10.11. In connection with the item regarding the need for the development of the banking industry including banking facilities in rural areas (Item No. 20) the Indian Banks Association has pleaded that the hours of work which may be found appropriate for urban areas would not fit in with the environments and

the nature of work in the rural areas and has claimed that the hours of work should be eight per day including Saturdays or 208 hours per month, on the lines of hours prescribed by the Shops and Establishments Acts in various States.

10.12. The State Bank of India and its Subsidiaries while dealing with item No. 21 regarding special needs of the State Bank of India and its Subsidiaries in respect of any of the preceding items (items 1 to 20 appearing in Schedule II to the order of reference), have claimed that the present working hours in branches and offices dealing with Government business should not be retained and that it should be left to them to fix working hours in consultation with the State Governments concerned.

10.13. No evidence has been placed before me to show that ordinarily the present hours of work are insufficient or that the present hours of work in rural establishments have caused such inconvenience as would warrant different hours of work being fixed for the rural areas. I am unable to accede to the demands of the banks in this connection.

10.14. The Bombay Exchange Banks Association and others have made a claim for an increase in the hours of work of the bank employees to bring them in line with the maximum hours of work laid down in the Shops and Establishments Acts. No evidence has been led to show that the present hours of work are insufficient for coping with the work ordinarily done by banks every day. There does not appear to me to be any necessity to change the hours of work prescribed by the Sastry Tribunal.

10.15. As regards the members of the watch and ward staff and godown-keepers their case has been fully considered by the previous Tribunals. Having regard to the nature of the duties which they have to perform and the expense involved in making other arrangements, it is difficult to improve upon the provisions made with regard to them under the award of the Sastry Tribunal as modified by the Labour Appellate Tribunal's decision.

10.16. There is a claim made for reducing the hours of work for employees working on accounting machines. The accounting machines have been introduced by the banks to help the workmen by reducing the amount of labour and fatigue involved in routine type of calculations. No evidence has been led to show that the use of these machines involves such labour or the wearing out of either the body or the mind to such an extent as would warrant the reduction in the hours of work for them. A special allowance has been provided for those workmen who work on these machines. There is no case made out for reducing their hours of work.

10.17. The banks have claimed that the hours of work for the members of the supervisory staff drawing less than Rs. 500 who came to be included within the category of "workmen" by reason of the Industrial Disputes (Amendment) Act, 1956, should be more than those for members of the clerical staff. By reason of the amendment of the definition of 'workman' in the Industrial Dispute Act, 1947, some persons who otherwise were not workmen have now become workmen. Such employees do not form a distinct class by themselves who could be easily distinguished from other members of the clerical staff drawing a supervisory allowance under the Sastry Award, for whom hours of work have been prescribed under the Sastry Award. In practice it would be extremely difficult to draw a line and distinguish the one from the other. In banks there is no standardised nomenclature for employees. A person bearing the same nomenclature may be performing different duties and discharging different functions in different banks. In small banks or at branches of banks at small centres one person may be performing the functions of several persons bearing different designations working in a large bank or in a large city. It is not practically feasible to provide for separate working hours for the employees under consideration and it is not necessary to do so.

10.18. The demand of some of the banks for provision for recess on Saturdays has been opposed by the workmen. A provision for lunch recess on Saturdays would entail the workmen remaining on the premises of the bank beyond the time when they would otherwise leave the premises of the bank. A recess is intended primarily for the benefit of those to whom it is granted. Workmen being opposed to a recess on Saturdays, no case has been made out for providing the same against the wishes of the workmen.

10.19. Shri H. K. Sowani, the learned advocate on behalf of the All India State Bank of India Staff Federation, contended that duty hours not exceeding eight hours should be fixed for drivers, domestic servants and 'malis'. Drivers are not

exempted from the provisions of the Sastry Award regarding hours of work unless it could be said that they are engaged in "domestic service". As regards others, the work performed by a large number of these employees is not of a continuous nature and does not lend itself to standardisation. Their cases have been duly considered by the previous Tribunals. In the present state of the record before me, I cannot see my way to lay down fixed duty hours for them.

10.20. In the result, all the provisions of the Sastry Award as modified in connection with hours of work will remain unaltered and will be applicable to all the banks which are before me and their workmen. The directions regarding the working hours shall be subject to the provisions of Shops and Establishments Acts and of any other enactments in this connection applicable to banks.

(ii) Overtime

10.21. The Sastry Tribunal by paragraph 304 of its award provided that banks could ask the workmen to do overtime work beyond the hours stated by it in the award but subject to a maximum of 90 hours in any calendar year, which may extend with the consent of the workmen, to 120 hours. It further provided that normally such period of overtime work shall not exceed 2 hours on any working day without the written consent of the workman except in cases falling under clause (6) of that paragraph relating to work done during public holidays declared as such for half-yearly or yearly closing of bank accounts and work done on other holidays. It is also laid down that for the first half an hour of overtime work, there would be no payment, that for every completed period of fifteen minutes' work thereafter the workmen should be paid for the first four quarter hours at the rate of $1\frac{1}{2}$ times the emoluments made up of basic pay, special allowances provided for higher or special types of work, officiating allowance and dearness allowance and that for overtime work beyond the first four quarter hours after the initial half hour cushioning period, they should be paid, for every quarter hour at the rate of $1\frac{1}{2}$ times of the emoluments together with an additional twenty per cent for work during such extra period. For the purpose of calculating payment for overtime work, it was directed that each working day should be taken as a distinct unit by itself. As regards the work done during a public holiday declared as such for half-yearly or yearly closing of bank accounts, overtime payment, if any, was to be made only for hours of actual work exceeding $6\frac{1}{2}$ hours if it was a week day or 4 hours if it was a Saturday, but for other holidays during which overtime work was required to be done, payment was to be made for the whole period of such work. The Sastry Tribunal excluded from the scope of its directions relating to overtime, part-time employees as well as watch and ward staff, bank employees engaged in domestic service, gardeners, sweepers and godown-keepers engaged solely for that work.

10.22. The Sastry Tribunal has provided in this respect also that the provisions of the local Shops and Establishments Acts in force in various States which were or might be made applicable to banks, subject to such exemptions as had been provided therein, would govern the parties before it and that if the directions given by it came into conflict with any provisions of such Acts or were repugnant to the same, then to the extent of such repugnancy or inconsistency with statutory provisions and to that extent only the directions given by it would give place to the statutory provisions.

10.23. The Sastry Tribunal directed that a workman who makes mistakes which necessitate overtime work on his part cannot claim the benefit of payment for such overtime work.

10.24. The Labour Appellate Tribunal modified the directions of the Sastry Award by deleting the provision relating to the cushioning period for the subordinate staff and by making the directions regarding overtime applicable to cases where godown-keepers were required to remain in attendance at the bank during office hours. The Labour Appellate Tribunal further directed that before an order refusing to pay overtime can be passed against a workman on the ground that his own mistake had necessitated overtime work he must be given an opportunity at a suitable time to explain his lapse and to show cause why an order depriving him of overtime should not be passed against him.

10.25. The All India Bank Employees Association has claimed that no employee should be called upon to work overtime for more than two hours beyond his working hours on any working day, with the maximum of 60 hours in a year, that overtime payment should be made at double the rates of wages calculated on hourly basis, that Sundays and other holidays should be excluded for the purpose of calculating hourly rate of wages, that there should be no cushioning period to be deducted for calculating the hours of overtime work, that no employee should

be asked to work overtime on Sundays and holidays except with his consent, that any workman, including a member of the watch and ward staff working overtime on Sundays and holidays, should be given a day off in the subsequent week in addition to the usual overtime payment, and that all employees including the watch and ward staff and godown-keepers should be allowed to enjoy all holidays under the Negotiable Instruments Act. The All India Bank Employees' Federation as also the Vadodra Rajya Bank Nokar Sangh have demanded that the rate of overtime should be increased, the employees should only be asked to work overtime in case of an emergency, that overtime work should not exceed two hours on any working day and it should not exceed 72 hours in any calendar year, that there should be no cushioning period and no overtime work on holidays except for half-yearly closing days, that there should be no overtime work in the case of weekly off days and that the basis of calculation should be double the rate of one-day wage arrived at by excluding Sundays and holidays in a month.

10.26. The employees of the State Bank of India through their various organisations have made more or less the same demands as the All India Bank Employees' Association except that the State Bank of India Employees' Association (Bengal Circle) says that there should be no overtime and no overtime payment and only as an exception and in very special cases and on a few occasions in particular places where overtime cannot be avoided for unavoidable reasons, it is in favour of conditional overtime work. The Indian Overseas Bank Employees Union, the All India Bank of Baroda Employees Federation, the South Gujarat Bank of Baroda Employees Union, Surat, the Allahabad Bank Employees Union, Calcutta, the Cochin Commercial Bank Employees Association, the State Bank of Patiala (All Cadres) Employees Association and the Employees Association of the Union Bank of Bijapur and Sholapur have also made demands in connection with overtime payment which are more or less similar to those made by the All India Bank Employees Association. The few differences are that the Indian Overseas Bank Employees Union is against any *ex gratia* payment in lieu of overtime work done by an employee, the Allahabad Bank Employees Union, Calcutta does not object to 90 hours overtime work in a year and the State Bank of Patiala (All Cadres) Employees Association says that the maximum hours of overtime work should not exceed 160 hours. The Behar Provincial Central Bank Employees Association at Muzaffarpur, says that overtime work should be discouraged and banks should employ sufficient hands to cope with the work and the employees should be asked to work overtime in case of emergency only. The Association does not want overtime work exceeding a maximum of 72 hours in a calendar year.

10.27. The Indian Banks Association has stated that the ceilings in respect of overtime work were fixed without any reliable materials on record, that in actual practice the ceilings could not be observed in spite of the best efforts on the part of the banks and directions were necessary for raising the ceiling to 300 hours in a calendar year without any condition of workman's consent and as a consequent change the daily limit of 2 hours should be raised to 3 hours, and that restriction of three hours per day should not apply to work done on the last day of each quarter, when the work was heavier than on other normal working days. In connection with the calculations to be made with regard to payment for overtime work, it has submitted that instead of each working day being taken as a unit under clause 5 of paragraph 304 of the Sastry Award, each week should be taken as a distinct unit. Since the award has not in terms laid down any method by which the emoluments per hour could be calculated, it has submitted that the rate of overtime payment should be calculated on the basis of the number of days in a month less Sundays. A direction is sought clarifying that public holidays declared for half-yearly or yearly closing of bank accounts should be treated as normal working days for all employees of the banks, whether they are connected with the work of closing of accounts or not. It is submitted that directions should be given to the effect that when an employee is sent on outstation duty, he would be entitled to overtime only for actual work of the bank done beyond the normal hours of work and the cushioning period, and that refusal to do obligatory overtime work within the prescribed limits would be treated as "gross misconduct" on the part of an employee, attracting disciplinary action. In connection with the statement appearing in paragraph 309 of the Sastry Award that "It will not be right for the banks to allot to workmen more work than could legitimately be done in the normal way" during the prescribed hours of work, a clarification is sought to the effect that normal work does not necessarily mean work done by employees regularly every day but it is such work as is normally done by an employee in the discharge of his duties either daily or at periodical intervals.

10.28. The Bombay Exchange Banks Association regards the demands of workmen on the question of overtime as most unreasonable. While opposing the

demands it has submitted that in view of the peculiar nature of the work in banks, there should be no restriction on overtime except to the extent required by statutes. It is submitted that a simplified formula should be prescribed to facilitate quick calculation and disbursement of the amount of overtime due to

workmen, the formula suggested being $\frac{2 \cdot \text{basic pay} \times 12}{48 \text{ hours per week} \times 52 \text{ weeks}}$. It is

further submitted that no overtime payments should be made when the employee works on a Sunday or on a weekly holiday if he is given a substituted holiday in accordance with the provisions of the local Shops and Establishments Act or otherwise, and that there should be no overtime payment for a closed day or a holiday not declared at least 48 hours before the commencement of business on that day.

10.29. The State Bank of India has opposed the demands of its employees about overtime and has submitted that the limitations on the hours of work and overtime have considerably affected the State Bank's capacity to discharge its duty to the public efficiently, that the Sastry Tribunal has constituted bank employees a privileged class as no such restrictions were placed in other industries, that it was not uncommon in the larger offices of the State Bank for employees to exhaust the 90 hours limit of overtime during the first few months of the year, thus making the State Bank dependant on arbitrary pleasure of the employees to work further overtime, that such limitations have no basis even in equity and very seriously handicap the bank invariably at the time when the books were to be closed and accounts balanced, which were very essential operations in a bank, that these limitations prove particularly onerous and heavy in connection with the State Bank's conduct of government business, that as agent of the Reserve Bank, the State Bank was under an obligation to conduct government business, such as remittances, exchange facilities, acceptance of applications for government loans, receipt of taxes, payment of salary and pension bills and other grants on behalf of government etc., and that the overtime limitations caused genuine difficulty to the State Bank as also to the public and the government departments. It has prayed that all restrictions on hours of overtime work and the surcharge on overtime payment should be removed. It has submitted that the demand that Sundays and holidays should be excluded for the purpose of calculation of hourly rate of wages was unreasonable and unjustified inasmuch as the State Bank's employees were all monthly rated and were paid for all days in a month, that the State Bank does not call upon its employees to work on holidays except when urgency of work or the nature of government business required this to be done and that if the matter was subject to the employees consent, it would cause grave difficulties and embarrassment to the bank.

10.30. The Subsidiaries of the State Bank of India have made submissions more or less on the lines of the above statement of the State Bank of India. On behalf of the State Bank of Patiala, it has been pointed out that prior to the coming into force of the Punjab Shops and Commercial Establishments Act, 1958, no allowance in respect of overtime was being paid to the workmen and that on the coming into force of that Act, the provisions thereof were being followed. The National Bank of Lahore has submitted that "overtime due should be conditioned upon the employee having completed his days work, that is, the work allotted to him or such amount of work as in the opinion of his immediate superiors is sufficient out-turn on the part of the employee". The Bharatha Lakshmi Bank Ltd. desires that the overtime as prescribed under the Shops and Establishments Act should be made applicable to D Class banks. The Jaya Laxmi Bank has made the following demands:

"No overtime should be allowed as in the Shops and Establishments. Present method is confusing and cumbersome. Fixed rate should be provided for additional work. Half an hour cushioning period should be allowed after office hours."

10.31. The Miraj State Bank is paying at present for overtime work beyond 39 hours a week at the rate of $1\frac{1}{2}$ times the ordinary rate of pay including dearness allowance and desires that there should be no change in this rate.

10.32. The State Bank of India and its Subsidiaries while dealing with item No. 21 in Schedule II to the order of reference has pleaded that the present overtime restriction should not be retained and that it should be left to them to pay overtime for work in excess of hours of work fixed in consultation with the Governments concerned and that the rate for overtime should be fixed similarly. They have further claimed that the employees who are employed as watchmen and armed guards and who are permitted to live and sleep on the premises of the bank should not be entitled to overtime.

10.33. The nature of the work in banks is such that overtime work is required to be done. Both the Sen and the Sastry Tribunals recognised the need of such work being done. There are various occasions when banks require overtime work to be done. When there is a need to locate mistakes on the very same day as, for instance, mistakes in the ledger; when an unusually large number of applications for casual leave on a given day are received and more than the usual number of persons take such casual leave; when there are two continuous holidays resulting in considerable accumulation of work which needs to be disposed of on the day immediately following such holidays; when banks have to prepare monthly balances during the last two days of the month and the first day of the subsequent month, when on 30th of June and 31st of December, the half yearly and yearly closing of the accounts has to be done; when there is rush of business due to changes in market conditions, when the work of collection or distribution of dividends on behalf of constituents is to be done within a short period; when there is a fresh or new capital issued or a government loan is issued and the work is to be completed within a short period; when there is inspection of banks to be done by the Reserve Bank of India and preparations have to be made for this purpose; when a large amount of government business is required to be done at the time of the closing of the financial year; when bills relating to grants and other sanctioned expenditure have to be disbursed at the latest on 31st of March of each year when taxes have to be deposited by 31st March for inclusion in the government revenue for the particular financial year and when remittances have to be made by taxpayers by particular dates, occasions arise for requiring employees to work overtime. There are other occasions when work may be required to be done overtime. The very nature of the work is such that there is pressure of work only on certain days or at certain times. It is a work of a sporadic nature and does not last so long as would warrant the employment of permanent hands. On most of the occasions when the work is being done, temporary employees cannot be employed for the purpose of carrying out the same, or may not be readily available. The period during which such work is required to be done is short.

10.34. The Sastry Tribunal has put a ceiling on overtime by providing that the total hours of such work should not exceed 90 without the consent of the employees and with his consent should not exceed 120. The Indian Banks Association has desired that the ceiling should be raised to 300 hours whilst the Bombay Exchange Banks Association and the State Bank of India have submitted that the ceiling should be removed altogether. Evidence has been led before me to show that at times some of the best banks have not been able to adhere to the ceiling fixed by the Sastry Tribunal. When ceilings are fixed, they should take into account the needs of banks. The imposition of too low a ceiling very often leads to abuse or to evasion or breach of the provisions of awards in that connection. In my view, the ceilings of 90 hours and 120 hours which have been fixed are low and need to be revised. Having regard to the nature of the work done by the banks and the requirements of banks, I consider that a ceiling of 150 working hours without the consent of the employees would be a fair one to be fixed. In connection with the overtime work which can be done with the consent of the employee concerned there seems to me to be no necessity to fix any ceiling, apart from the ceiling to which the workman may be subject under any statutes. The work to be done by the employees of the banks does not involve such physical and mental strain and fatigue as would require the imposition of a ban on such work beyond certain hours so that in spite of the willingness of workmen to do such work they should be prevented from doing so by the dictates of the social conscience working through a Tribunal. The legislatures of various States have granted sufficient protection to workmen in general in connection with overtime under the various Shops and Establishments Acts. The workmen in the banking industry are sufficiently advanced, sufficiently intelligent and sufficiently organised so as not to need any further special protection.

10.35. In connection with the provision in the Award of the Sastry Tribunal that the maximum hours of overtime work should not exceed 2 hours a day except with the written consent of the workmen, a demand has been made for removing the ceiling or increasing the number of hours. Having carefully considered the matter, I am of the view that normally no workman should without his consent be asked to do work on any day whether it be a Sunday or other holiday or a Saturday or other week day exceeding 9 hours inclusive of the cushioning period but excluding the recess in the case of workmen other than those belonging to the subordinate staff and 9½ hours excluding the recess in

the case of members of the subordinate staff. In an emergency of which a responsible officer of the bank will be the sole judge, or when in the case of the State Bank of India and its subsidiaries the exigency of government work at the close of the financial year so require, a workman may be required to work for a longer period without his consent. In no case, however, there should be any infringement of the provisions of any law relating to the ceiling on hours of work or overtime applicable to the establishment concerned.

10.36. There is a provision under the Sastry Award as modified for a cushioning period of half an hour for members of the clerical staff. For work done during this period no overtime payment is required to be made. On behalf of the workmen it is urged that the cushioning period should be abolished. The hours of work fixed by the Sastry Award are considerably less than the hours of work under the various Shops and Establishments Acts passed by State legislatures in connection with commercial establishments. The Sastry scheme relating to the hours of work takes into account this cushioning period. The Sastry Tribunal has given good reason for providing this cushioning period and it is not necessary to repeat them here. No evidence has been led to establish that work in excess of the fixed number of hours has become a regular feature of the work in banks which would warrant a change in the provisions relating to the cushioning period which form an integral part of the Sastry Award relating to hours of work and overtime. No case has been made out for abolishing the cushioning period.

10.37. According to the Sastry scheme of payment for overtime, for every completed 15 minutes' work done over and above the half an hour cushioning period, the members of the clerical staff have to be paid overtime wages. On behalf of the workmen it has been urged that the effect of this provision is that for 44 minutes of work done beyond the usual working hours, no payment is being made by the banks. The result of the present provision is that not merely the cushioning period of 30 minutes does not attract any extra remuneration, but even the further 14 minutes beyond the cushioning period do not attract any extra remuneration if no further work beyond these 44 minutes is required to be done. In my view, if the workmen other than members of the subordinate staff are required to put in work beyond the cushioning period of half an hour it is but fair that they should be paid therefor. I am giving a direction that for calculating overtime, any work done for less than one quarter hour should be counted as if the work had been done for one quarter hour.

10.38. A claim has been made on behalf of workmen that for doing overtime work on Sundays and holidays they should be given a day off in the subsequent week, in addition to the usual overtime payment. For working on a holiday, an employee is already compensated by payment of overtime at a rate far in excess of the rate at which he otherwise receives payment. The demand of the workmen for an extra holiday which would involve payment without work for that day is opposed by the banks. The demand for an extra holiday in addition to payment at higher rates for work done on a holiday is not justified in the banking industry and cannot be acceded to.

10.39. *Rate of payment.*—The employees desire that they should be paid for overtime work done by them at double the rate of wages calculated on an hourly basis. They have relied upon the provisions of some of the Shops and Establishments Acts. Under the provisions of the said Acts the normal hours of work are much larger than those provided under the Sastry Award. The said Acts cannot be looked at merely for the purpose of the rate of overtime without taking into account the number of hours for which work is required to be done without extra payment. No case has been made out for a change in the present rate of payment for overtime work. On behalf of some of the banks it has been contended that the provision for 20 per cent. surcharge in respect of work done beyond the first four quarter hours after the initial half an hour cushioning period is unusual, without precedent and should cease. It is a way of providing for higher rate of remuneration for such work, and I see no reason to differ from the Sastry Tribunal in this connection. It offers an inducement to the workmen to do overtime work willingly and for a longer time.

10.40. In the past some difficulties have been experienced in connection with the calculation of the hourly rate of overtime work. Workmen are being paid wages per month. A question has arisen whether Sundays and holidays occurring in a month should or should not be taken into account for the purpose of arriving at an average hourly rate of wages. The number of working days in a month varies with the month and with the holidays occurring in the month which again vary in

different States. The result is that the number of working hours in all the months are not uniform. It was stated that in the year 1961 for Bombay, the total number of working hours were 129 for the month of March and 156½ for the month of July. For Calcutta the variation was even greater. The total number of working hours during the year 1961 for Calcutta for the month of October were 107, while the same for the month of May were 159. Most of the banks and all the associations and unions of employees appearing before me have accepted the suggestion made on behalf of the Indian Banks Association that for the purpose of calculation of overtime wages, a uniform standard of a month being equivalent to 150 hours should be adopted for the purpose of calculation of overtime both for members of the subordinate staff and for other workmen. This suggestion was made and was accepted after taking into account the fact that the number of working hours for members of the subordinate staff were to be more than those for other workmen. In fact Shri Sowani on behalf of the State Bank of India Staff Federation accepted the suggestion only on the footing that the number of hours for the members of the subordinate staff were to be larger than those for other workmen. This method of calculation is advantageous to the members of the subordinate staff. Their remuneration, however, is comparatively less. This method of calculation seems to me on the whole to be fair and easy of application. In view of the large measure of agreement in this connection and in view of the desirability of having a simple method for the calculation of overtime wages, and taking into account all the other circumstances of this case, I accept this basis for the calculation of overtime for all banks and their workmen.

10.41. The Indian Banks Association has stated that it is the contention of some employees that the provisions of the Sastry Award in connection with work on 30th June and 31st December were applicable only to those employees who were connected with the work of closing of accounts and that others who worked on those days should be paid overtime on the footing that they have worked on holidays. It is also pointed out that there was no half yearly closing of accounts in the State Bank of India on the 30th of June. These two days have been declared as holidays for the facility of banks work in connection with the half yearly and yearly closing of accounts. It has been done with a view to closing the bank's doors to the public and not with a view to giving a holiday to the staff. These two days should be treated as normal working days for all the employees of all banks whether they are connected with the closing of accounts or not.

10.42. A claim has also been made on behalf of the workmen that no workman should be asked to work on Sundays or on holidays without his consent. It is only where there is real pressure of work and the work has to be cleared within a fixed time that banks would normally call the workmen concerned on those days and pay them overtime at fairly high rates. I do not think it proper to impose a further burden on banks of securing the consent of the workmen concerned.

10.43. The Indian Banks Association has claimed that if any workman refused to do overtime work, which he was under an obligation to do, it should be regarded as "gross misconduct". The Sastry Tribunal has defined gross misconduct to include "wilful insubordination or disobedience of any lawful and reasonable order of the management or of a superior". Apart from the question of my jurisdiction to deal with such a demand, I see no reason to give any special directions in connection therewith.

10.44. There is no necessity to give any directions in connection with any other demands.

10.45. The Indian Banks Association has asked for some clarification in connection with the time for which overtime payment is claimable by persons who have been posted for outstation duty. It is stated that claims have been made by such persons on the footing that barring the normal hours of work plus the cushioning period, the rest of the time when they are away from headquarters should be treated as constituting overtime work. When a person is on outstation duty he cannot be regarded as working all the time when he is away from headquarters for the purpose of claiming overtime payment. There is, however, no reason why a workman who works when on outstation duty for a period in excess of the normal working hours together with the cushioning period if any, should not be paid for such overtime work. A workman, when on outstation duty, would be entitled to claim overtime payment for the period during which he has to work in excess of the usual hours of work and the cushioning period, if any.

10.46. I give the following general directions in connection with hours of work and overtime :—

- (1) For workmen other than members of the subordinate staff, the actual hours of work exclusive of the recess period on week days (excluding Saturdays) shall not exceed 6½ hours a day. The actual hours of work on Saturdays shall not exceed 4 hours.
- (2) For the members of the subordinate staff, the working hours specified in clause (1) stand modified to the extent that they will be required to attend duty half an hour earlier and stay half an hour later than the normal working hours fixed for the other workmen.
- (3) There shall be a recess for lunch which shall not be less than half an hour and not more than one hour for week days (excluding Saturdays), subject, however, to the requirements of any statutory provisions like the Shops and Commercial Establishments Acts. Primarily it will be for the workmen to decide the actual length of recess within the limit fixed as aforesaid and the majority decision of the workmen in any branch or establishment shall be adopted in case of difference of opinion with the management.
- (4) The banks will be at liberty to fix at their discretion the actual timing for work provided the maximum number of hours of work fixed by this award are being observed.
- (5) Part-time employees as well as members of the watch and ward staff, bank employees engaged in domestic service, gardeners, sweepers, godown-keepers engaged solely for that work other than those required to remain in attendance at the bank during office hours, are excluded from the scope of the aforesaid directions. The provisions contained in clause 9 below equally not to apply to them.
- (6) The hours of work for the persons excluded as above will be governed by the provisions, if any, of any enactments in connection with hours of work applicable to the banks concerned.
- (7) As regards a chowkidar employed to guard the bank's premises, when he is one of several chowkidars and is kept on duty only for a period of time (generally about 8 hours), the hours of work however should not exceed a shift of 8 hours in 24 hours.
- (8) The banks can require a workman to do work called overtime work beyond the aforesaid hours of work prescribed for him without the consent of the workman, subject to a maximum of 150 hours in any calendar year. With the consent of the workman he can be asked to do overtime work in any calendar year in excess of 150 hours.
- (9) Normally, the total period of work including overtime shall not without the consent of the workman concerned, on any day, exceed, in the case of workmen other than members of the subordinate staff, 9 hours inclusive of the cushioning period, and in the case of the members of the subordinate staff, 9½ hours, the period of recess not being regarded as period of work. In the case of an emergency, of which a responsible officer of the bank concerned shall be the sole Judge, or when in the case of the State Bank of India and its Subsidiaries the exigency of government work at the close of the financial year so require a workman can be required to work without his consent in excess of the aforesaid hours. In no case however there should be any infringement of the provisions of any law relating to the ceiling on the hours of work or overtime applicable to the establishment concerned.
- (10) The 30th of June and 31st of December, when declared as such to be holidays for half yearly and yearly closing of accounts, shall be deemed to be normal working days for all workmen employed in all banks.
- (11) For the first half an hour of overtime work (hereinafter called the cushioning period) on any working day there shall be no payment for workmen other than members of the subordinate staff. There will be no such cushioning period for work done on Sundays and holidays. There will be no such cushioning period for members of the subordinate staff.

- (12) For every quarter of an hour's overtime work done, which shall be beyond any cushioning period where any such period is provided, all workmen shall be paid at the rates hereinafter mentioned.
- (13) For the purpose of calculation of overtime, work done for less than one full quarter of an hour shall be deemed to be work done for quarter of an hour.
- (14) Payment in respect of overtime work done shall be made at the rate of $1\frac{1}{2}$ times the emoluments made up of basic pay, special allowance, if any, officiating allowance, if any, and dearness allowance, for every quarter of an hour of overtime work done for which payment has to be made. Payment in respect of overtime for work done for every quarter hour beyond the first four quarter hours which have to be paid for, shall however be at the aforesaid rate of $1\frac{1}{2}$ times the emoluments with an additional 20 per cent., i.e., it shall be at the rate of 1.70 per cent. of such emoluments. In those cases where payment for overtime is required to be made under any enactment at a higher rate, it shall be paid at such higher rate for the period for which it is obligatory to pay the same at such higher rate.
- (15) For the purpose of calculating the amount payable for overtime work, every month shall be deemed to consist of 150 working hours so that the ordinary emoluments payable per hour will be deemed to be 1/150th of the monthly emoluments for all workmen.
- (16) A workman who is guilty of any mistake which has resulted in his doing overtime work will not be entitled to receive payment for such overtime work. Before, however, a workman is held not to be so entitled, he must be given an opportunity at a suitable time to explain his lapse and to show cause why he should not be considered to be disentitled to receive such payment.
- (17) The directions hereinbefore given shall be subject to the provisions made by or under any enactment applicable to the establishment concerned.

CHAPTER XI

Item No. 9: MEDICAL AID AND EXPENSES

11.1 The Sastry Tribunal has observed that a bank is directly interested in maintaining the health of its workmen, that the banks had realised it and that the same was evident from the commendable practice obtaining in some of the major banks where without any obligation imposed by any award ample medical facilities had been provided for employees. The Sastry Tribunal expressed the view that the facilities provided by the banks could only be limited in the nature of things. After considering the numerous demands of the employers which, to use the language of the Sastry Tribunal, covered "a wide ground and range all the way from ordinary mixtures to specialized treatment, from consultation to hospitalization, from change of doctors to change of climate", and the various arguments placed before it, the Sastry Tribunal in paragraph 450 of its award gave the following directions:—

- "(1) Medical facilities should be availed of only by the workman. Members of his family are not entitled to the same.
- (2) Wherever existing facilities in any bank or banks are superior to the provisions hereinafter made, such facilities should be continued.
- (3) Wherever possible, banks should appoint or nominate a whole-time or part-time medical practitioner (hereinafter called 'authorised doctor') who shall be available for consultation and for treatment at stated hours either in his dispensary or in the premises made available to him by the bank.
- (4) An employee claiming the benefit of these facilities shall go to an authorised doctor or such other doctor as he may recommend in writing, provided that where there is no such authorised doctor appointed by the bank for any place, the employee can choose any registered medical practitioner practising in the locality or nearby.
- (5) Except where an authorised doctor treats the workman, all medical bills shall, in the first instance, be paid by the workman. He can thereafter recover whatever amounts are permissible from the bank. Bill of authorised doctor shall be paid by the bank itself.
- (6) Banks are at liberty to have the bills for treatment submitted by other medical practitioners where authorised doctors are not available for scrutiny and approval by the banks' doctors and only the amounts so recommended by them need be paid.

- (7) Every workman shall during illness (whether he is on duty or on leave) be entitled, free of charge and up to the limits in clause 10 *infra*, to attendance and treatment by the bank's authorised doctor or where there is no such doctor, by a registered medical practitioner of his choice as stated above.
- (8) Expenses properly incurred by the workman shall be paid by the bank within six weeks of the production of bills and certificates by him.
- (9) All bills submitted for payment shall be accompanied by a certificate from the doctor concerned for the treatment.
- (10) The total expenses from January to December of each calendar year on account of medical attendance and treatment payable by a bank to a workman shall not exceed the following limits:—

Class of Banks	Class of Areas		
	I	II	III
	Rs.	Rs.	Rs.
A	90	60	50
B	75	50	40
C	60	40	30
D	30	20	15

We are not defining the extent and nature of medical treatment in view of the monetary limits fixed by us. Such facilities however need not include supply of dentures, spectacles, hearing and other aids."

11.2. The Sastry Tribunal further observed as follows:—

"As we have not before us full details as regards the financial implications of the provision for medical relief, we have been obliged to take only a cautious step forward. However, after experience of the working of the scheme for three years an upward revision of the extent of relief may be possible. In that connection a ceiling for the total expenditure under this head calculated at an appropriate figure for each workman may perhaps be fixed, and subject thereto, the limits which we have prescribed for each individual may be enhanced appropriately."

11.3. The Labour Appellate Tribunal after having duly considered all aspects of the matter, including the medical facilities available to government employees, has observed as follows:—

"With reference to the government employees the Government occupies a double role—one as an employer, and the other as the State having responsibility for the health of the people."

"The Government has at its disposal medical services, dispensaries and hospitals, and the Government is able to provide liberal facilities to its employees without much extra cost."

"Assuming that Government employees enjoy more liberal medical relief, we are not inclined to compel the banks to provide their employees with similar facilities, although we must make it clear that those banks which have a more liberal schemes of medical assistance shall continue such benefits."

11.4. The Labour Appellate Tribunal has further observed that a healthy wage structure provides for medical treatment, that the workmen could not justly claim the entire cost of treatment, that medical aid was an amenity which depended quite a lot on the resources of the employers and that in a rural area, the cost of consultation was expected to be less than that in an urban area and much less than the cost in cities and that those facts accounted for the variations found in the Sastry Award according to the resources of the banks and according to areas. The Labour Appellate Tribunal did not therefore see its way to alter the figures relating to expenses on account of medical attendance and treatment fixed by the Sastry Tribunal. It, however, laid down that in order to ensure that the amounts which were small might be of real assistance, the amounts should be accumulated to such figures as did not exceed three times the amounts and that any workman who had not exhausted the maximum amount available to him in any particular year on

account of medical assistance should be entitled to have the unexhausted portion carried over from year to year, so that the total amount available to him at any time did not exceed three times the maximum amount allowed to him by the award in a year. The Sastry Award stood modified to that extent.

11.5. The Bank Award Commission in dealing with the above modification made by the Labour Appellate Tribunal observed as follows:—

“though on paper and in theory the provision appears to impose a somewhat heavy burden on banks, in practice and in fact the provision may not mean much benefit to employees themselves.”

It came to the conclusion that the provision for accumulation of medical relief which had been introduced by the Labour Appellate Tribunal in its decision should be set aside. Parliament ultimately gave effect to the aforesaid recommendation of the Bank Award Commission with the result that the provisions of the Sastry Award in connection with medical aid and expenses became effective without any alteration therein.

11.6. On behalf of the workmen the main demands made before me were the following:—

- (1) “Medical facilities should be extended to the members of a workman's family besides himself.”
“Medical aid benefits should be extended to the dependants of the employees.”
- (2) “Every workman should be granted medical aid not less than Rs. 150 per year with a right to accumulate it upto three years. In cases of diseases like tuberculosis, cancer and such other serious illness or accidents, requiring prolonged and expensive treatment, the bank should pay the entire amount of actual expenses incurred for treatment and recovery.”
“Arrangement should be made with the hospitals for free medical treatment of the employees and their dependants in case of prolonged and/or serious illness or accidents.”
- (3) “Banks in big cities should pool together unavailed medical fund and out of such pooled fund, should start hospitals for the benefit of the employees. Alternatively special beds should be reserved for the employees in good and reputed hospitals and/or nursing homes.”
- (4) “Banks should, on the suggestion of employees, in different areas or localities in every town where there are branches, appoint an adequate number of medical practitioners practising allopathy, homeopathy, Ayurvedic or Unani systems of medicines. Employees should be allowed to take treatment from any Registered Medical Practitioner dealing in Allopathy, Homeopathy and/or Ayurvedic system of medicines.”
- (5) “Banks should make adequate arrangements for supply of prescribed medicines promptly to the employees. If in case the bank is not in a position to supply medicines, the amounts of all bills in connection therewith should be paid to the employees direct within a week's time.”
- (6) “All bills for professional calls should be paid to the authorised doctors direct by the bank, but where there is no such authorised doctor the bills should be paid to the employees within a week's time from their submission.”
- (7) “Bills relating to sickness during periods when an employee is on long leave should be paid to the employee upon scrutiny.”
- (8) “Spectacles, dentures, hearing aids are to be included in the aid.”
- (9) “The bank should create a fund of Rs. 150 per workman at the beginning of every calendar year and the balance remaining after payment of medical bills on this account should be utilised for reservation of beds in good hospitals and/or nursing homes, wherever possible.”

11.7. The Indian Banks Association has submitted that the provisions relating to medical aid and expenses as prescribed under the Sastry Award should be left untouched except to the extent of the modifications sought by it as indicated below:—

- (1) Paragraph 450 of the Sastry Award provides that wherever the existing facilities in any bank or banks are “superior to the provisions” made under the award, such facilities should be continued. It is alleged that disputes and differences arise between the management and the

employees in connection with the concept about what facilities were superior and what were inferior and it is submitted that in order to avoid such controversy in future, the Tribunal should direct that employees should collectively make an irrevocable choice whether they will have existing facilities or those provided by the award.

- (ii) By clause (6) of paragraph 450 of the Sastry Award, banks have been given liberty to have medical bills scrutinised and approved by banks' doctors. It is alleged that when the bills are submitted it is sometimes found difficult to ascertain the genuineness of the claim put forward and in some cases it also becomes difficult for the banks' doctors to satisfy themselves about the bills for want of necessary particulars. It is submitted that the Tribunal should direct that all bills submitted should specify the nature of the illness, the diagnosis, the treatment prescribed, the duration of the sickness and such further and other details and information as may enable banks or the banks' doctors to verify the bills and that the banks may also be given liberty to call for such information and particulars as may be desired and that the employees should be under an obligation to furnish the same and that in the absence of these particulars and information, the banks would be justified in refusing payment.
- (iii) By clause (8) of paragraph 450 of the Sastry Award, banks have been directed to pay expenses within six weeks of the production of bills and certificates by the employee concerned. It is stated that after such bills and certificates are produced, the banks have to make their own enquiries and the banks' doctors have to scrutinise the bills and that vagueness and incompleteness of the particulars give rise to difficulties. It is contended that the period of six weeks from the date of the production of the bills and certificates was found to be inadequate and it is submitted that for making payment of expenses properly incurred the period of six weeks should be computed from the date the employee furnishes all bills and certificates and information and details referred to above, that an obligation should be placed upon the employees to submit the bills promptly, that the employees should be directed to submit the medical bills and certificates within such time as may seem reasonable to the Tribunal and that the failure to do so should be made a valid ground for the banks to refuse payment.
- (iv) In paragraph 450(10) of the Sastry Award, certain scales of medical expenses have been laid down. It is submitted that these scales are for permanent employees because they are stated to be for each calendar year. It is alleged that temporary employees employed to do a particular job and employed as substitutes were also making claims for the full amount of the total expenses prescribed and it is submitted that temporary employees should be granted medical expenses on a pro-rata basis, i.e., in proportion to the service already put in or total service such employees are expected to put in in the course of their employment.

11.8. The Bombay Exchange Banks Association has submitted that the present practice under the Sastry Award has led to a lot of difficulties, that it was unreasonable to demand that the existing medical facilities should be extended to workmen's families, that even the Employees' State Insurance Scheme did not cover workers' families, that the demand that the banks should pool together unavailing medical funds and start hospitals or reserve beds did not amount to an industrial dispute, that most of the demands made were unreasonable and unjustified, that the banks should be allowed in cases where they provide the services of a doctor and/or like facilities, to deduct the cost of such facilities from the amount sanctioned under the award by way of medical benefits, that its member-banks were willing to consider the introduction of a reputable medical insurance scheme on the basis of those being offered by some of the private insurance companies on the strict understanding that the benefits thereunder were strictly for the employees themselves and the premia payable for such insurance were deductible from the quantum of medical aid sanctioned under the award and that any extra excess premia were to be on account of the employees, and that the banks should be at liberty to enforce the provisions of the award as regards medical benefits, irrespective of their past practice.

11.9. The State Bank of India, in its reply, has stated that as a gesture of goodwill, it had permitted accumulation of monetary benefits to the extent of a maximum of three years' benefit, in spite of the fact that the provision had been struck down. It states that the aforesaid concession has largely contributed to fraud and abuse, that the quantum fixed under the Sastry Award was very reasonable and fair and

that there was no case for an increase. It has submitted that any direction given should make it clear that in the event of the Employees' State Insurance Scheme or similar scheme being introduced for the State Bank's employees, the directions and the present practice should cease to be in force.

11.10. The Indian Banks Association has on behalf of the State Bank of Patiala, stated that there was no specific provision for medical aid for the banks' employees who did not opt for "the 1957 terms", but medical aid was given in deserving cases from the staff welfare fund which at present was being managed by a committee appointed by the State Bank of India consisting of the general manager of the bank, one officer and one workman.

11.11. The benefits given under the Sastry Award so far as medical aid and expenses are concerned, are reasonable in the present circumstances. Workmen have claimed that medical facilities should be extended to the members of workmen's family. Both the Sastry Tribunal and the Labour Appellate Tribunal considered this matter and could not see their way to grant this demand. It was considered that the health of the family was primarily a charge on the pay and emoluments of an employee and not on the bank. No such change in the circumstances has taken place which would warrant the grant of this facility. This demand may be covered when the Employees State Insurance Scheme is made applicable to the workmen in the banking industry.

11.12. No evidence has been led to show that the provision made by the Sastry Award as regards the total expenses on account of medical attendance and treatment payable by a bank to a workman has in practice been found to be insufficient or that a considerable number of workmen have not been able to obtain medical relief during illness from the bank on account of the insufficiency of the provision made by the Sastry Tribunal therefor.

11.13. When a workman falls ill, the expenses which he has to incur in connection with his illness do not depend upon the class of bank in which he is employed. In the same area his need is the same, whether he is employed by an A Class or a B Class or a C Class bank. If the need of the workman was to be the sole criterion for fixing the amount of expenses to be incurred by a bank on account of medical attendance and treatment there would be no warrant for providing varying amounts in a descending order in the same area, having regard to the class of bank in which the workman is employed. The need of a workman employed in a bank falling in a lower class is in fact greater than the need of a workman employed in a bank falling in a higher class, as in the same area a person employed in a higher class bank would be in receipt of a larger amount by way of emoluments than a person employed in a lower class bank. In providing separately for expenses on account of medical attendance and treatment the capacity of the bank has to be taken into account. Some of the banks which will now fall in C Class under this award will have to bear a much larger burden than banks in A and B Class by reason of the abolition of Class D under the Sastry Award. A further burden will have to be borne by all banks which have at present branches in Area IV as under this award the separate classification of Area IV is being done away with. This award further provides for an increase in the total remuneration payable by banks and imposes an increased burden on banks under several heads.

11.14. Taking all factors into consideration, I cannot see my way to provide for a uniform rate of expenses for medical attendance and treatment to workmen. The provisions of the Sastry Award will remain unaltered except to this extent that the provision therein contained relating to C Class banks will also apply to C Class banks including banks in the Excepted List under this award.

11.15. The claim of workmen for accumulation of the monetary benefits upto three years requires consideration. Though the State Bank of India has contended that the concession made by them in this connection has "largely contributed to fraud and abuse", it has led no evidence in connection therewith. A sum of Rs. 90 is the maximum provided for medical attendance and treatment in connection with workmen employed in Area I by A Class banks. It would not suffice to cover the costs of a prolonged or serious illness. Prolonged and serious illnesses may not occur often in a workman's life-time. If there is a provision for accumulation, it might help the workman in getting proper attendance and treatment when he suffers from a serious or prolonged illness needing greater expenditure of money on account of medical attendance and treatment. This provision for accumulation would, no doubt, impose a larger burden upon banks. The State Bank of India has voluntarily taken that burden upon itself. So far as A and B Class banks are concerned, they should experience no difficulty in bearing this extra burden. As regards C Class banks, some of the banks falling in that class will be burdened

more than the banks in A and B Class by reason of the other provisions contained in this award. I do not therefore wish to impose this extra burden upon them.

11.16. I accordingly direct that so far as the workmen in A and B Class banks are concerned, the amount of total expenses provided on account of medical attendance and treatment from January to December of each calendar year should be allowed to accumulate so as not to exceed at any time three times the maximum amount provided under this award.

11.17. It was urged that the provisions relating to medical aid and expenses should be available not merely when a workman falls ill but also when he meets with any accident. In order to avoid any controversy on the subject, I direct that the provisions of this award in connection with medical aid and expenses will extend to cases where a workman meets with an accident and is in need of medical aid.

11.18. The workmen claim that they should be entitled at their choice to receive treatment in accordance with the homeopathic, ayurvedic or unani systems of medicine. No directions are given which would oblige any bank to make any provision for such treatment. Any bank however will be at liberty, if it so chooses to allow the expenditure incurred on such treatment to be paid out of the amount of expenses for medical attendance and treatment provided herein.

11.19. The Sastry Award provides as under:—

“Wherever existing facilities in any bank or banks are superior to the provisions hereinafter made, such facilities should be continued.”

Some of the banks have claimed that the employees should collectively make an irrevocable choice whether they will have existing facilities or those provided by the award. The provisions of the Sastry Award have been in operation for a long time. No outstanding dispute in this connection is pointed out to me, and no provision in this connection is necessary.

11.20. Having considered all the demands and having considered all aspects of the matter, no further change in the provisions relating to medical aid and expenses is called for. I make an award in terms of the provisions contained in paragraph 450 of the Sastry Award set out above with the modifications and additions herein before mentioned. The same will apply to all banks covered by this award.

CHAPTER XII

Item No. 10:—CASH DEPOSITS, FIDELITY BONDS AND OTHER SECURITIES TO BE FURNISHED BY THE STAFF.

12.1. The Sastry Tribunal, after referring to the then existing practice prevailing in banks, observed that the practice revealed the need felt by banks to have some sort of security to cover financial loss that may be caused by any fraud or negligence or by embezzlement of monies by workmen engaged in cash department and by those handling cash, valuable securities and other possessions. It further observed that “where facilities for dishonest practice likely to involve the bank in loss exist there should be adequate safeguards for banks”. It held that on principle the need for deposits or other securities to be provided by such staff had been made out. It laid down that only the clerical staff in the cash department, ledger keepers and godown keepers in charge of stocks should be called upon to give individual securities of their own. After considering the various forms in which security may be taken, it observed that the only alternatives available to the banks were that of a cash deposit or a fidelity bond. It was unable to agree with the contention that the cash deposits should not be insisted upon in any case. As regards the payment of premium on a fidelity bond it could see no objection to the workman being asked to bear the burden where he did not find it convenient to make a cash deposit for reasons of his own. It observed that if deposit or security in some form or other was incidental to that kind of employment in the bank it was not unjust or improper that the incidental burden of expenses in connection with it should fall upon the employee. It did not accept the contention urged on behalf of the workmen that premium should necessarily be borne by the banks in such cases. It further observed that the amounts, for which such security may be taken, would naturally vary with the kind of work that was allotted to the various categories of workmen. The Sastry Tribunal did not lay down any directions under this head and made a general observation that as a general rule the banks should not fix very high amounts but should as far

as possible take such minimum amount only as was proper in each case. It further directed that where security was required to be given, failure to furnish the necessary security should ordinarily operate as a bar to confirmation, unless the management otherwise directed for special reasons and that where the workman was not able to give the necessary security, the banks should, if possible, transfer him to a post in which no security need be furnished and in such an event his confirmation, if otherwise warranted should not be withheld or postponed.

12.2. The Labour Appellate Tribunal in dealing with the provisions of the Sastry Award has observed that the Sastry Award merely determined three classes of employees from whom alone, to the exclusion of others, security may be asked for. The Labour Appellate Tribunal directed that in cases where individual security had been taken from employees other than employees belonging to the aforesaid three categories specified by the Sastry Tribunal, the security bonds would be deemed to be cancelled and the banks would refund the unutilised portion of the security, and where the security was in cash together with simple interest thereon at 4 per cent. per annum from 1st April 1954.

12.3. On behalf of the employees claims to the following effect have been made :—

No employees should be called upon to submit cash deposits, fidelity bond or any other form of security as a condition of his employment. In case it is considered necessary to have any sort of fidelity for any employee, the premium therefor should be borne by the bank.

All existing cash deposits or securities should be returned with interest to the concerned employees. Existing employees who have been compelled to take fidelity insurance policies at their own expenses should be allowed to discontinue the same from the date of enforcement of the award of this Tribunal.

The existing practice prevailing in certain banks, known as Guarantee Treasurers System, Contractor Cashier System, Chief Cashier's System, in terms of which the employees in cash and some other departments are appointed under the guarantee and on recommendation of the said Guarantee Treasurers, Contractor Cashiers, Chief Cashiers, etc. as the case may be, should be abolished.

12.4. The Indian Banks Association has submitted that the provisions made in Chapter XXI of the Sastry Award in this connection have worked satisfactorily and that they should be continued.

12.5. The Bombay Exchange Banks' Association has stated that bearing in mind the nature of banking business, the demand was totally unjustified and unreasonable. It claimed that the demands related to matters concerning the functions of management and should not form the subject of adjudication, that if the bank decided that in all cases or in some a cash deposit, fidelity bond, and/or other security was desirable it became a contract of service. It pleaded that it was unreasonable that the bank should be required to pay any premium of fidelity insurance taken out by or for an employee. It further stated that the existing practices were salutary and of long standing and should not be abolished or interfered with bearing in mind the nature of banking business.

12.6. The State Bank of India has stated that the system of furnishing cash security by cashiers arose out of the nature of the duties the employees were expected to carry out and was in conformity with the practice in the banking industry, that the head cashier was part of the administrative structure of the bank and the head cashier was responsible to the bank for all acts of omission and commission by the cash department employees and it was essential that all cashiers must be under his control. It has submitted that the demand that no cash deposit etc., should be taken from any employee even by the head cashier, who undertook responsibility of the employees' acts was unjustified and unreasonable.

12.7. The Miraj State Bank Limited has stated that the bank has a system of taking security deposits from clerks including cashiers and other employees of the bank including members of the supervisory staff, that the usual practice is that a security deposit not exceeding Rs. 1,000 is taken from a clerk or cashier by very easy monthly instalments of Rs. 5 or Rs. 10 according to the stage in the scales of pay at which a workman might have arrived and that having regard to the method of taking security deposits and having regard to the nature of the work that workmen in the employment of the bank have to perform it was essential that

the bank should be permitted to take such security deposits as it might consider proper in the circumstances of each case.

12.8. The Northern India Banks Association has stated that the arrangement provided under the Sastry Award was fair and equitable and should be continued.

12.9. The State Bank of Patiala has pleaded that now that the bank was a subsidiary of the State Bank of India and was required to handle government business and government treasure the bank would perforce have to call upon the assistant cashiers and head cashier to furnish more cash securities and the position would have to be reviewed from time to time and that the bank should be vested with discretion to decide whether an employee should furnish security and the extent and nature of such security. It adopted the written statement filed by the Indian Banks Association on behalf of its other members on this issue.

12.10. The Sastry Tribunal has dealt with the necessity of the banks taking some sort of security to cover financial loss that may be caused by any fraud or negligence or by embezzlement of monies by workmen engaged in the cash department and by those handling cash, valuable securities and other possessions. No case has been made out for the abolition of the system of taking cash deposits, fidelity bonds or other forms of security as a condition of employment for the categories of employees stated in the Sastry Award from whom the same could be taken. The Sastry Tribunal has also dealt with the claim about the premium in connection with fidelity bonds being borne by the bank. I agree with the observations made by the Sastry Tribunal in this connection. No case has been made out for directing any bank to pay the premia in connection therewith.

12.11. I accordingly direct that a bank will be at liberty to demand security from (i) workmen employed in the cash department other than members of the subordinate staff, (ii) ledger-keepers and (iii) godown-keepers in charge of stocks and from no other workmen.

12.12. In connection with the claim made that all existing cash deposits or securities should be returned with interest to the employees concerned, the Labour Appellate Tribunal in connection with a similar demand had given a direction that where individual security had been taken from employees other than the employees belonging to the three categories specified by the Sastry Tribunal, the security bond would be deemed to be cancelled and the banks should refund the unutilised portion of the security. It also directed the return of the security in cash together with interest. There are some banks before me which were not parties to the proceedings before the Sastry Tribunal. I direct that where any bank has taken security from workmen other than those from whom they are entitled to take security under this award, the security bonds should be cancelled and where the security consists of cash, the banks should refund the unutilised portion of the security within four months from the date of the coming into force of this award. In the event of such refund not being made within the time aforesaid, the banks will be liable to pay interest to the persons concerned at the rate of four per cent. per annum on the amount directed to be refunded from the date of the expiry of the aforesaid period of four months till the date of payment.

12.13. Workmen have complained that some banks demand securities from workmen by resorting to the device of employing them in composite capacities so as to include one of the aforesaid capacities which would enable them to demand security without giving to the employees actual work in the capacity in connection wherewith security could be demanded. In order to avoid the possibility of such abuse, I direct that security could only be demanded by banks where the performance of the duties attached to the office in connection wherewith security could be demanded constitutes a substantial part of the duty of such workman.

12.14. As regards the abolition of what is called the 'Guarantee Treasurers System', 'Contractor Cashier System' and 'Chief Cashier's System', it has been strongly urged on behalf of the banks that the question relating to the abolition of any such system does not constitute the subject-matter of the Reference and that I have no jurisdiction to deal with the demand. It is urged that the items of dispute referred to the Sastry Tribunal were somewhat different from the items of dispute referred to this Tribunal. Items 21 and 23 referred to the Sastry Tribunal ran as under :—

“(21) Cash deposits, fidelity bonds and other securities to be furnished by staff including the question :—

(a) whether failure to furnish such security should operate as a bank on confirmation,

and

(b) whether the scheme of security and guarantee introduced by the Punjab National Bank Limited is suitable."

"(23) Method of recruitment, terms and conditions of service.....".

There is no item like the method of recruitment and terms of and conditions of service in general in the items of dispute referred to this Tribunal. The aforesaid systems which are sought to be abolished, relate to the method of recruitment, the conditions of recruitment and the conditions of continuance in service of certain classes of workmen. Under these systems, security is furnished by the workmen concerned to the Guarantee Treasurer, Contractor Cashier or the Chief Cashier. These systems prevail only in certain banks. There are certain undesirable features in connection with the aforesaid systems which have forcefully been brought to my notice. The dispute sought to be raised is not covered by any of the items referred to me for adjudication and I have no jurisdiction to entertain the same. All the parties affected by these systems are not even before me. I give no directions in connection therewith.

CHAPTER XIII

Item No. 11: UNIFORMS AND LIVERIES

13.1. The dispute in connection with this item was not the subject matter of adjudication by the Sastry Tribunal.

13.2. The All India Bank Employees Association has claimed that all members of the subordinate staff should be supplied with two full sets of summer uniforms every year and one set of winter uniform every alternate year, that the uniform should include a pair of shoes and four pairs of socks every year, that in cold areas, warm overcoats should also be provided to watchmen after every two years and that the employees on out-door duties should also be supplied with rain-coats.

13.3. The All India Bank Employees Federation and the Vadodara Rajya Bank Nokar Sangh have stated that though generally uniforms are supplied to the subordinate staff of banks, definite rules should be laid down in connection therewith. They demand three sets of uniforms each consisting of "coat, pair of pants or dhoties, one shirt, one cap or turban, pair of socks, one pair of sandals or shoes". For winter they demand warm clothing and for the monsoon "monsoon equipment such as rain coat, umbrella and gum-boots" every year. They have demanded that the employees on night duty should be supplied with over-coats and blankets.

13.4. The All India State Bank of India Staff Federation and the State Bank of India Staff Union, Andhra Pradesh, have demanded for all members of the subordinate staff, four full sets of summer uniforms every year and one set of winter uniform every alternate year. They have claimed that the uniform should include a pair of shoes and four pairs of socks every year and that in cold areas a warm over-coat should also be provided to every watchman after every two years, and employees on out-door duty should be supplied with rain-coat.

13.5. The State Bank of India Employees Association (Bengal Circle) has claimed that all members of the subordinate staff be provided with two full sets of summer uniforms every year consisting of (a) coat, (b) trousers, (c) shirt, (d) headgear, (e) footwear, (f) belt and (g) socks. It has claimed that one set of warm clothing including socks, etc., should be provided to the subordinate staff and workmen who work in cold climate and in the hill stations every two years and that a warm overcoat should be provided every three years. It has further claimed that employees on outdoor duties should also be supplied with rain coats and umbrellas.

13.6. The All India Bank of Baroda Employees Federation has claimed that all members of the subordinate staff should be supplied with two full sets of summer uniform every year and one set of winter uniform every alternate year, the uniform to include a pair of shoes and four pairs of socks every year. It has claimed that in cold areas warm overcoat should also be supplied to watchmen every two years and that employees on outdoor duty should also be supplied with rain coats. By its supplementary statement of claim, the Federation has claimed that every member of the subordinate staff should be supplied with an umbrella during the monsoon every year. The Federation has also submitted that the practice of supplying three sets of uniforms to subordinate staff members who do outdoor work should be continued.

13.7. The Indian Overseas Bank Employees Union has made a demand similar to the demand made by the All India Bank Employees Association, except that it has demanded that umbrellas should also be supplied.

13.8. The Indian Banks Association has, in reply to the statement of claim made by the All India Bank Employees Association, opposed the demand for the supply of "socks, shoes, over-coats, rain-coats, etc."

13.9. The Bombay Exchange Banks Association has submitted that the existing practice in banks should be continued, and that the demand made was extravagant and unjustified. It has further submitted that shoes, socks and rain coats cannot be claimed as part of uniforms or liveries.

13.10. The State Bank of India has stated in reply that some of the items demanded, such as shirts, footwear, belt and socks do not constitute uniforms or liveries, that rain coats and umbrellas are not items of uniforms and liveries and that in any event, the demand for such items was unreasonable.

13.11. The State Bank of Patiala has stated that apart from what it was already providing, no further directions were called for. It has further stated that it was supplying cold weather uniforms every three years, save in the case of those with service of less than one year, and two hot weather uniforms every alternate year, save in the case of those with service of less than three months, to Jamadars, gunretainers, peons, record-lifters, daftries, sweepers, drivers, gardeners and kahar working at the head office.

13.12. The Bharatha Lakshmi Bank Limited has submitted that it would be enough if two sets of uniforms made of cotton were supplied to members of the subordinate staff.

13.13. The Miraj State Bank has stated that according to the present practice—the bank supplied to its sepoy and peons Khaki uniforms consisting of a coat and a pant, that the number of sets of uniforms to be supplied was not determined and that uniforms were supplied from time to time when it became necessary to do so. It has further stated that umbrellas were being supplied as and when necessary.

13.14. In reply to the supplementary statement of claim filed by the All India Bank of Baroda Employees Federation, the Bank of Baroda has submitted that the demand for supply of umbrellas was unreasonable, that umbrellas are not a part of uniform, that peons who have to do out-door work are being given umbrellas and that the claim for umbrellas for all peons was unreasonable.

13.15. The Northern India Banks Association has pleaded that the banks are already providing uniforms to the subordinate staff to ensure efficiency and cleanliness and felt that there was hardly any need for a provision on this point and that the arrangements already in existence should continue.

13.16. The practice of banks relating to the supply of uniforms is not uniform. The type of uniform supplied also varies in different banks. Having considered all the aspects of the matter, I think it desirable to give only certain general directions in connection with the supply of uniforms to the members of the subordinate staff without specifying what the uniform should consist of, it being left to the banks to decide about the type of uniform to be supplied and the quality of material to be used in connection therewith. I direct that at least two sets of cotton uniforms should be supplied by banks to the members of the subordinate staff in the permanent employment of the banks every year, and one set of woollen uniform should be supplied to them by the banks once in three years. I do not consider it necessary to give any other directions.

CHAPTER XIV

Item No. 12:—NEED FOR THE MAINTENANCE OF SENIORITY LISTS

14.1. On behalf of the workmen the following demands have been made:—

"Every bank should maintain a category-wise list of seniority of its employees in the following manner for the purpose of promotion:—

(i) In respect of subordinate staff such list should be prepared and maintained strictly in terms of the length of service on town-wise basis for the purpose of promotions within the subordinate cadre.

(ii) In respect of clerks, lists of seniority should be prepared and maintained for the purpose of promotions in terms of the length of service with

additional notional weightage of one year's service for graduates and one year for each part of C.A.I.B. and C.A.I.B. Diploma holders. Such lists should be prepared on State-wise basis in respect of every bank and made known to the employees.

(III) On the basis of the lists maintained promotions to the different categories should be effected."

"Banks should maintain the seniority lists of the employees for the purposes of promotion, re-employment, etc., and the same should be put on the Notice Board or circulated amongst the employees in order to prevent abuses by the Banks.

Seniority lists be maintained of retrenched or temporary employees."

"Seniority lists (in the State Bank of India) should be prepared after consultation with the [State Bank of India Employees' Association, (Bengal Circle)]."

"Seniority list should be maintained (by the Indian Overseas Bank) taking the Indian Overseas Bank as a single Unit".

"The Bank of Baroda should maintain the list of seniority of all categories of employees."

14.2. The All India State Bank of India Staff Federation in its statement of claim as originally filed on 20th September 1960 had demanded that in respect of subordinate staff a seniority list should be prepared and maintained strictly in terms of the length of service on town-wise basis for the purpose of promotions within the subordinate cadre and in respect of clerks and cashiers the same should be prepared and maintained on State-wise basis. On 23rd August 1961 it applied for an amendment in terms following:—

"In respect of subordinate staff such list should be prepared and maintained strictly in terms of length of service on branch-wise basis for the purposes of promotion within the subordinate cadre.

In respect of clerks and cashiers list of seniority should be prepared and maintained for the purposes of promotions to a higher grade in terms of length of service with additional notional weightage of one year's service for graduates and one year for each part of C.A.I.B. and C.A.I.B. diploma holders. Such lists should be prepared on circle-wise basis and made known to employees."

This amendment has been granted and the demand of the aforesaid Federation which requires consideration is the revised demand.

14.3. In addition to the aforesaid claims, various demands have been made on behalf of the employees in connection with promotions to higher grade and in connection with recruitment.

14.4. The Indian Banks Association has submitted that the item relating to the need for maintenance of seniority lists does not relate to an industrial dispute and that this Tribunal has no jurisdiction to adjudicate upon the same. It has further submitted that the question of seniority list arises when considering promotions and termination of employment in case general retrenchment takes place in an establishment. It states that as regards promotions all Tribunals have recognised that there could be no hard and fast rules and that the ultimate decision must rest with the management, and that it was apparent that by an indirect method the employees wanted the question of promotion to be regulated by hidebound rules. It further says that in case of retrenchment, section 25 G of the Industrial Disputes Act had made ample provisions to protect the interests of the employees by recognising the principle of 'last come first go', and that the Industrial Disputes (Central) Rules, 1957, dealt with minor details connected with retrenchment and according to Rule 77 of the said Rules an employer has to prepare a list of workmen from which retrenchment is contemplated, arranged according to the seniority of service and cause a copy thereof to be posted on the notice board at least seven days before the actual date of retrenchment. It submits that in view of this statutory requirement, no directions are either necessary or called for. It further submits that no employee either in the clerical grade or belonging to the subordinate staff can claim promotion as a matter of right and that in the matter of recruitment the management has always been and has to be given a free hand and the employees cannot claim to dictate to the employers as to how any particular vacancy was to be filled in.

14.5. The Bombay Exchange Banks Association has stated that the question of promotion was one which was essentially a management function depending as it did on the management's assessment of an employee's merit and suitability for promotion and that if any directions were made calling for maintenance of seniority lists, it would lead to disputes and would affect the smooth running of business. It further states that under the scheme of the Industrial Disputes Act, 1947, the emphasis was on an industrial establishment and that Act provided that in cases of retrenchment, normally retrenchment should be effected of a workman who was last employed in the category concerned in the establishment. The demand of the workmen is opposed by the Bombay Exchange Banks Association.

14.6. The State Bank of India has contended that it maintains branchwise seniority lists, that those were adequate and that no case was made out for maintaining seniority lists on any other basis.

14.7. On behalf of the State Bank of Patiala it is stated that the bank was maintaining a seniority list of employees in all cadres. The bank, however, stated that this demand was intimately linked up with promotion policy which was a management function.

14.8. The Miraj State Bank has stated that the bank so far had not come across any problems arising out of this question and submitted that there was no need to make any elaborate provision as far as the question of seniority and promotions was concerned.

14.9. Item No. 12 relates merely to the "need for maintenance of seniority lists". Under this head the question relating to the conditions under which promotions should be granted cannot be agitated.

14.10. Seniority lists are required to be maintained generally for the purpose of retrenchment and promotion. As regards retrenchment, section 25 G of the Industrial Disputes Act, 1947, provides that where any workman in an industrial establishment, who is a citizen of India, is to be retrenched and he belongs to a particular category of workmen in that establishment, in the absence of any agreement between the employer and the workman in this behalf, the employer shall ordinarily retrench the workman who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other workman. Rule 77 of the Industrial Disputes (Central) Rules, 1957, provides as under:—

"The employer shall prepare a list of all workmen in the particular category from which retrenchment is contemplated arranged according to the seniority of their service in that category and cause a copy thereof to be posted on a notice board in a conspicuous place in the premises of the industrial establishment at least seven days before the actual date of retrenchment."

For retrenchment purposes, these provisions are sufficient and there is no necessity for giving any directions in connection therewith.

14.11. The real necessity for seniority lists as claimed by the workmen arises in connection with matters mainly concerning promotions. The question relating to the principles on which promotions should be granted does not arise for determination by me. In considering the need for maintenance of seniority lists, I can only consider the promotion policy as is found to be in existence in banks. In this connection, it would not be out of place to refer to the provisions of the Sastry Award. In paragraph 529 of the Sastry Award it is stated as follows:—

"We do not think that any hard and fast rules can be laid down in connection with promotions. We are definitely opposed to the suggestion that employees unions should be consulted in connection with promotions. It cannot be supported on principle. We do not think that such consultation is likely to be helpful either. While there is no doubt that seniority in service should be one of the most important factors to be taken into account for the purpose, we are unable to agree that mere length of service alone irrespective of efficiency, educational qualifications, character and nature of responsibility required in connection with the vacancies to be filled in should be the sole or even the main criterion for promotion. Promotion is certainly not a matter which could be made automatic and a great deal of discretion by its very nature must rest with the management in this connection. It is not only difficult but very undesirable to lay

down any one single principle for the exercise of this discretion. In our opinion there must be cases of employees in the banking industry, as elsewhere in which efficiency of some employees does not necessarily improve with mere length of service. Nor do all employees in all cases show capacity for work involving higher responsibilities. The apprehension of the employees underlying the demand for length of service to be the sole governing factor for promotion may be due to apprehensions of nepotism and victimization of employees who take active interest in the trade union movement. No substantial proof in support of this apprehension has been laid before us and such cases, if any, can only be dealt with in other ways or as provided by law. We, however, direct that even when direct recruitment to particular posts is decided on, deserving men already in service who come up to the required educational qualifications should also be enable to compete for such recruitment by a reasonable relaxation of the rules relating to age and other restrictions if any. We further direct that in the case of employees who are not found fit for promotion the decision should be borne out by service records of the employees, and that when a person senior in service is superseded it should be for good and cogent reasons. We recommend that such an employee should have the right to appeal to the General Manager or the Managing Director who should consider the appeal with an open mind and revise the decision if necessary, and that such appeal should not be treated as an act of discipline on the part of the employee by the officers under whom he may be working."

These provisions, however, do not apply to all banks who are appearing before me. Seniority in service, though not the only factor to be considered in connection with promotion, is one of the important factors which has to be taken into account. The provisions of the Sastry Award contemplate the existence even of an appeal by a person senior in service who has been superseded.

14.12. On behalf of a large number of workmen it has been claimed that in respect of the members of the subordinate staff seniority list should be prepared and maintained on town-wise basis and in connection with the clerical staff it should be prepared on State-wise basis. In order that any such list may be of any use, one has to consider (i) the question of transferability of the services of an employee and (ii) the policy regarding promotion, *viz.* whether for the purposes of promotion employees are to be considered establishment-wise, area-wise, circle-wise, state-wise or throughout the country. As regards the policy regarding transfers, the Sastry Tribunal in paragraph 536 has laid down as under:—

"We direct that in general the policy should be to limit the transfers to the minimum consistent with banking needs and efficiency. So far as members of the subordinate establishment are concerned there should be no transfers ordinarily and if there are any transfers at all they should not be beyond the language area of the person so transferred. We further direct that even in the case of workmen not belonging to the subordinate staff, as far as possible there should be no transfer outside the State or the language areas in which an employee has been serving except of course, with his consent. In all cases the number of transfers to which a workman is subject should be strictly limited and normally it should not be more than once in a year.....".

These provisions however do not govern all banks appearing before me. The question relating to the policy regarding transfers does not arise for determination by me. At present there are no hard and fast rules in connection with promotions. I cannot in this reference lay down whether for the purpose of promotions, employees should be considered establishment-wise, area-wise, circle-wise, state-wise or in the country as a whole. A seniority list to be useful must be co-related to the totality of persons from whom a choice is to be made for the purpose of promotions. It is not possible for me to direct any list to be prepared on any particular basis which would be of practical use. Under the circumstances, having regard to the limited scope of the Reference, though I recognise the need for the maintenance of seniority lists, I am unable to give any directions making it obligatory on the banks to maintain seniority lists on any particular basis. I may in passing, observe that having regard to the limited scope of the reference, this matter has not been fully dealt with before me.

CHAPTER XV

Item No. 13.—AGE OF RETIREMENT

15.1. The Sastry Tribunal provided that after a workman has reached the age of 55 years, he may be retired after giving him two months' notice in writing in case his efficiency is found by the employer to have been impaired. It further provided that subject to this rule and also subject to any rule under an existing pension fund the workman should not be compelled to retire before he is 58 years old.

15.2. The All India Bank Employees Association has claimed that for all categories of employees, the age of retirement should be fixed at 60. A similar demand has been made by the All India Bank Employees Federation, the All India State Bank of India Staff Federation and other Associations and Unions of workmen. The Indian Overseas Bank Employees Union has claimed that the retirement age should be 55 and if the employee so desired, extension should be granted upto a maximum period of 3 years. The State Bank of India Employees' Association (Bengal Circle) has pleaded that the age for compulsory retirement should be 58 years and an employee should, at his option, be entitled to retire after 20 years of service. The Employees Association of Union Bank of Bijapur and Sholapur has claimed that for all categories of employees the age of retirement should be fixed at 60 and that an employee may have an option to retire after his age of 55.

15.3. The Indian Banks Association has opposed the demand and has stated that the present demand of the employees runs counter to the demand made on behalf of the employees before the Sastry Tribunal. Before the Sastry Tribunal the All India Bank Employees Association had contended that all employees should be compulsorily retired on the completion of 30 years of service or 55 years of age, whichever was earlier, whilst the Imperial Bank Staff Association had suggested that no workman should be retired unless he completed 58 years of age. The Bombay Exchange Banks Association, in reply, submitted that the question about the age of retirement would have to be decided by the Tribunal in the light of the principles laid down by the Supreme Court in the case of *Guest Keen Williams Private Limited vs. Sterling (P.J.)* and others reported in 1959 (II) Labour Law Journal, page 405. It submitted that on an application of those principles to banks and especially in view of the existence of pension schemes in several banks, there was no case for an increase in the retirement age.

15.4. The State Bank of India has stated that the age of retirement in the State Bank, as prescribed by the Sastry Tribunal, was 58 years and that the demand that an employee should be entitled to retire after 20 years service was not reasonable.

15.5. On behalf of the State Bank of Patiala, it has been stated that the present age of retirement was 55 years and that there was no justification for any change.

15.6. The Miraj State Bank Limited has submitted that the bank was governed by the provisions of the standing orders as settled by the Commissioner of Labour, that the standing orders of the bank including the clause relating to retirement were framed by the Commissioner of Labour on securing the agreement of the bank as well as the representative Union of its workmen and therefore, no change in the present rule relating to the age of retirement was called for.

15.7. The Bharatha Lakshmi Bank Limited has submitted that the age of retirement may be fixed at 55 years with option to banks to extend it by not more than 5 years.

15.8. The Jaya Lakshmi Bank Limited, in reply has stated as under:—

"Age of retirement shall be on completion of 55 years. It is observed that after the age of 55 the efficiency of the workman is impaired."

15.9. The Supreme Court, in the case of *Guest Keen Williams (Private) Ltd. vs. Sterling (P.J.)* and others, reported in 1959 (II) Labour Law Journal, page 405, in the course of its judgment, has observed that in fixing the age of superannuation Industrial Tribunals have to take into account several relevant factors. The factors enumerated by it are the following:—What is the nature of the work assigned to the employees in the course of their employment? What is the nature

of the wage structure paid to them? What are the retirement benefits and other amenities available to them? What is the character of the climate where the employees work and what is the age of superannuation fixed in comparable industries in the same region? What is generally the practice prevailing in the industry in the past in the matter of retiring its employees? The Supreme Court has laid down that these and other relevant facts have to be weighed by the Tribunal in every case when it is called upon to fix an age of superannuation in an industrial dispute. In the case of Imperial Chemical Industries (India) (Private) Ltd., Bombay and its workmen, reported in 1960 (II) Labour Law Journal, page 716, the Supreme Court has observed that in fixing the age of retirement no hard and fast rule could be laid down and that the decision on the question would always depend on a proper assessment of relevant factors and might conceivably vary from case to case.

15.10. In the course of the hearing it was argued on behalf of the employees that generally speaking officers of the banks were not retired earlier than the age of 60, that in Exchange Banks even at present generally the employees were allowed to continue in service till the age of 60 years, that in view of the judgment of the Supreme Court in the case of the Imperial Chemical Industries (India) (Private) Ltd., and its workmen, reported in 1960 (II) Labour Law Journal, page 716, the proper age of retirement should be fixed at 60, that there was a tendency now to raise the age of retirement and that the Norms Committee appointed by the then Government of Bombay had also recommended that the age of retirement should be 60.

15.11. On the other hand, it was contended on behalf of the banks that the directions given by the Sastry Tribunal had not been found to be unduly harsh or improper, that there should be no alteration in the age of retirement as that would directly affect the pension, and that all that had been pointed out by the other side was that in several concerns in Bombay the age of retirement was 60. It was argued on behalf of the State Bank of India that there would be additional burden on the State Bank if the age of retirement was extended by two years, that there would be difficulty in giving promotions, that there was a fair pension scheme obtaining in the State Bank, that the Supreme Court had observed in the case of the Imperial Chemical Industries (India) (Private) Ltd., Bombay, reported in 1960 (II) Labour Law Journal, page 716 that a fair and reasonable pension scheme played an important part in fixing the age of retirement at a comparatively earlier stage, that the bank today recruited employees on the basis that some will retire in a particular year at the age of 58 and that if the retirement age was raised, this programme would be upset.

15.12. I have to consider the question on an all India footing and it is desirable to lay down a uniform provision applicable to all classes of banks who are before me. In the Reserve Bank of India, which is the central banking institution in the country, the age of retirement is 55 years at present. No demand has been made by Class II and Class III of its employees for increasing the age of retirement, even though various other demands have been made on their behalf which constitute the subject matter of Reference No. 2 of 1960 which is pending before me. Class IV employees of the Reserve Bank have, however, made a demand for raising the age of retirement to 60 years. A few exhibits have been filed before me showing that in several concerns the age of retirement is 60 years. There are a few banks which have pension schemes in operation. The banks in general are opposed to raising the age of retirement. It would be inflicting some hardship on some of the banks which have pension schemes, if the age of retirement is further raised.

15.13. Taking every relevant factor into consideration, I am inclined to take the view that the provisions contained in the Sastry Award are reasonable and that at present no change is called for. I accordingly direct that after a workman has reached the age of 55 years, he may be retired after giving him two months' notice in writing in case his efficiency is found by the employer to have been impaired. Subject to this rule and also subject to any rule under an existing pension fund, a workman should not be compelled to retire before he is 58 years old. Banks, however, will be at liberty, wherever they consider fit, to make rules providing for a higher age of retirement.

CHAPTER XVI

Item No. 14: CATEGORIES OF WORKMEN TO WHOM THE AWARD OF THE TRIBUNAL SHOULD BE APPLICABLE

16.1. The All India Bank Employees Association has submitted that the award of this Tribunal should apply to all categories of workmen in the banks for whom

demands have been put forward by the Association. It further submits that in all categories, the award should apply also to probationers, temporary employees, part-time employees, permanent employees and apprentices. The All India State Bank of India Staff Federation and the State Bank of India Staff Union, Andhra Pradesh, Vijayawada, have made similar demands.

16.2. The All India Bank Employees' Federation and Vadodra Rajya Bank Nokar Sangh have submitted that all workmen as defined in the Industrial Disputes Act, including permanent, temporary, casual and part-time workmen, probationers, apprentices, etc., should be covered by the award and that all should be entitled to all the benefits of the award.

16.3. The Cochin Commercial Bank Employees Association has claimed that "in case of such officers who are not treated as workmen by the Bank they should be given the option to the classification of their choice." The Allahabad Bank Employees Union, Calcutta, has demanded that the entire supervisory, clerical and subordinate staff whether full time or part-time should be governed by the award of the Tribunal. The State Bank of Patiala (All Cadres) Employees Association wants the award to be made applicable to all the categories of employees (subordinate staff, clerical staff and supervisory staff etc.) whose case has been pleaded by the Association. The All India Bank of Baroda Employees Federation has pleaded as under:— "The Federation submits that the terms of Reference is a misnomer since the Award of this Honourable Tribunal will apply to the categories of the workmen in the Banking Industry for whom demands had been put forward by the Federation."

16.4. The Indian Banks Association has submitted that according to the definition of "workmen" given in section 2(s) of the Industrial Disputes Act, 1947, a person employed mainly in a managerial or administrative capacity or in a supervisory capacity drawing wages exceeding Rs. 500 per month, was not a workman, that the Tribunal would have no jurisdiction to lay down emoluments for such employees beyond Rs. 500 per month, that the Tribunal should give option from the date the award comes into force to such employees in supervisory grade either to opt for the totality of the benefits under the award to be given by the Tribunal or to opt for such terms and conditions as might be available under the contract between the employees concerned and the bank, and that such option should be made available to employee in the supervisory grade now employed, or those who might enter such grade after the publication of the award of the Tribunal. The demand of the workmen that the award should be made applicable to apprentices has been opposed.

16.5. The Bombay Exchange Banks' Association has submitted that the award should be made applicable only to the clerical and the subordinate staff drawing scales of pay and allowances according to the award of the Tribunal, provided they are on the banks' permanent and regular establishment and working full time, that members of the supervisory staff who are presently covered by the definition of "workmen" whose grade or scales or emoluments are fixed by the Board of Directors or by the managements and are voluntarily accepted by them either at the time of entry into service or by way of promotion from the clerical cadre during the course of their service and whose basic and/or terminal pay according to that scale or grade is higher than that of a member of the clerical cadre having the same length of service, should be excluded from the provision of the award in all respect. It has further been submitted that the award should not be made applicable to the following categories, whose recruitment and terms and conditions of service should be in the entire discretion of banks:—

- (1) Apprentices, probationers, temporary employees and part-time employees.
- (2) Liftmen and drivers.
- (3) Cooks, dhobis and other servants doing domestic work.
- (4) Gardeners.
- (5) Caretakers.
- (6) Air conditioning operators.
- (7) Electricians, mechanics and maintenance staff.
- (8) Sweepers and cleaners.
- (9) Godown keepers.
- (10) Chowkidars and/or watch and ward staff.

16.6. The State Bank of India has submitted that the award of this Tribunal should not apply to persons who are attached whole-time to bungalows and staff quarters, to part-time employees, casual and temporary employees and jobs workers. It is further submitted that the award should also not apply to clerks-in-charge of the bank's treasury pay offices, pay offices and sub-pay offices, assuming that they were held to be workmen. Similar submission is made on behalf of Subsidiaries of the State Bank of India. The Miraj State Bank has submitted that having regard to the peculiar character of the banking industry and the nature of the banking business, application of the provisions of the award should be restricted only to permanent workmen and probationers in the employment of the bank excluding supervisory staff who may technically be "workmen" within the definition of the term and that the provisions of the award should also not be made applicable to temporary workmen, part-time workmen and apprentices. The bank further submits that the application of the provisions of the award to a temporary employee would be anomalous and can create an embarrassing situation, that the provisions of the award should not be made applicable to the apprentices and that as the Miraj State Bank did not have any occasion to employ any part-time workmen the question of making the provisions of the award applicable to part-time employees, so far as the Miraj State Bank is concerned, did not arise. The Jaya Laxmi Bank has submitted that the award of this Tribunal should be made applicable to confirmed clerical staff and subordinate staff and that it should not be made applicable to officers (managers, assistant managers, agents, assistant agents, accountants, supervisory staff) part-time workers, probationers, apprentices and 'temporary appointments'. The Bharatha Lakshmi Bank has submitted that the award should be made applicable to clerks and the subordinate staff only.

16.7. Item 14 itself postulates that the categories of persons to whom this award should be applicable must be workmen. Having regard to the amended definition of the expression 'workman' given in section 2 (s) of the Industrial Disputes Act, 1947, the question as regards the persons who fall within the definition has been considered by me earlier. This award will apply only to employees who are workmen within the meaning of the said definition so long as they remain workmen. It will not apply to any employee who is not a workman. The question that remains to be considered is whether this award should apply to all categories of persons who are workmen or to some of them, and if so, to which of them. The question relating to the supervisory staff has been separately dealt with by me in Chapter V, paragraph 5.196 onwards under the heading "Supervisory Staff" and I need not repeat what is stated therein.

16.8. As regards apprentices, I have already stated, in paragraph 5.192 of this award that scales of pay provided under this award are not applicable to them. On behalf of the banks it is contended that apprentices should be wholly excluded from the operation of this award. Various questions affecting apprentices have been raised under items 19 and 22 with which I will deal with later. Some directions will be required to be given in connection with apprentices who are workmen.

16.9. The State Bank of India has claimed that casual workers and job workers should be excluded from the operation of this award. I have made no provision in any part of this award in connection with them and persons who are casual employees or who are employed to do job work are excluded from the operation of this award.

16.10. As regards cooks and domestic servants who are employed to do the work exclusively for officers of the bank at the residence of such officers, I have stated in paragraph 5.194 that the scales of pay provided in this award are not applicable to them. A demand has been made that they should be excluded from the operation of this award. There is no evidence led before me about conditions under which they work and I am unable to make any provision of this award applicable to them. None of the provisions of this award will apply to them.

16.11. As regards the other categories of workmen, wherever any provision of the award is not intended to be applicable to them, the same has been specified at the proper place. Save as herein provided, I am unable to accede to the demand for the exclusion of other categories of workmen from the operation of this award.

CHAPTER XVII

Item No. 15: SUBSISTENCE ALLOWANCE DURING PERIOD OF SUSPENSION

17.1. By paragraph 557 of its award the Sastry Tribunal directed that subsistence allowance during the period of suspension should be granted to an employee on the following scales:—

- (1) For the first three months one-third of the pay and allowances which the workman would have got but for the suspension;
- (2) Thereafter, (i) where the enquiry is departmental by the bank, one-half of the pay and allowances for the succeeding months; (ii) where the enquiry is by an outside agency, one-third of the pay and allowances for the next three months and thereafter one-half for the succeeding months until the enquiry is over.

It appeared to the Sastry Tribunal that whatever might be the legal position under the ordinary law, some allowance should be given to workmen under suspension as they should not be left to starve during the period of suspension.

17.2. The Labour Appellate Tribunal, after considering the matter, did not make any change in the aforesaid general provisions. In connection with the Imperial Bank of India, it observed that the workmen of the Bengal Circle were in fact paid full salary and allowances for the period of suspension and that out of 11,000 and odd employees of the said bank, 7000 employees were in the Bengal Circle. It gave its decision in connection with the employees, of the Imperial Bank in terms following:— "We do not propose to lay down any general principle; but on the special facts here, when the benefit has been extended to the majority of the workmen, we consider it right to direct that the same benefit shall be made available to the workmen of the other circles. We direct accordingly."

17.3. On behalf of the workmen, the following claims were made:—

"That there should be no suspension except where an employee was involved in an offence for which he was liable to conviction and sentence under the provisions of the criminal law, that suspension allowance at the rate of three-fourths of the total emoluments should be paid for the first three months and thereafter full salary and allowance should be paid". "Ordinarily employees should not be suspended", and "that during suspension 'in special circumstances', workmen should be entitled to full pay and allowances and all other benefits for the suspension period".

17.4. On behalf of the employees of the State Bank of India, it was submitted that there should be no suspension except where an employee was involved in an offence for which he was liable to conviction and sentence under the provisions of criminal law and that pay for the suspension period should be paid according to the existing rules.

17.5. It is pleaded by the State Bank of India Employees' Association (Bengal Circle), that the period of suspension should in no case exceed two months where the enquiry was departmental.

17.6. Most of the banks have pleaded that suitable and satisfactory provision has been made for subsistence allowance under the Sastry Award and that no change is required to be made.

17.7. The Bombay Exchange Banks' Association has claimed that any subsistence allowance in the case of employees who are prosecuted in criminal court should entirely cease after a period of six months from the date of suspension.

17.8. The State Bank of India has stated that the demands made were unreasonable and unjustified, that as a matter of fact, due to the practice followed by the Imperial Bank of India, under the circumstances then existing of providing for payment of full pay during suspension, the State Bank had been required to grant full pay during the period of suspension which was absolutely unreasonable and unsustainable on principle. The State Bank submitted that the Tribunal should direct the State Bank to pay the same rate of subsistence allowance which the Tribunal prescribes for other banks and should further direct that if an employee was suspended because of criminal prosecution, payment of subsistence allowance should cease six months after the date of suspension and that an employee who was prosecuted for an offence not connected with the bank's work and was suspended by the bank, should not be granted any subsistence allowance.

17.9. The State Bank of Patiala has stated that a workman under suspension was being paid by the bank subsistence allowance at the rate of half the employee's substantive pay plus dearness allowance. It adopted the written statement filed by the Indian Banks Association on behalf of its member banks on this issue.

17.10. I have to deal under this item with the question of subsistence allowance during period of suspension. Demands have been made under this item that a person should not ordinarily be suspended or should be suspended only when he is involved in an offence for which he was liable to be convicted and sentenced under the ordinary criminal law. These demands cannot strictly speaking be said to be covered by this item. Apart from any other consideration, in my view, there is no merit in this demand. There is no reason why a bank should not be in a position to suspend a workman who is charged with gross misconduct not amounting to an offence under the ordinary criminal law.

17.11. As regards the demand for limiting the period of suspension and for placing a limit on the time during which subsistence allowance should be paid, no hard and fast rule can be laid down. It may happen that in some cases, the period of suspension is fairly long. The duration of the period of suspension may depend upon various circumstances affecting the time taken in connection with an enquiry by the bank or by an outside agency. Under the law of contract, when an employee is suspended, the contract of employment itself is under suspension. It is only with a view to prevent great hardship upon the employees that Tribunals have made provision for the grant of subsistence allowance during the period of suspension which, under the law of contract, they would otherwise not have obtained.

17.12. The matter concerning subsistence allowance during the period of suspension has been carefully considered by the Sastry Tribunal. Having carefully considered all aspects of the matter, I do not see any necessity for making any change therein.

17.13. The State Bank of India is at present giving full salary and allowances during the period of suspension. There is no reason for treating the State Bank of India or any particular bank differently from other banks in an all-India adjudication.

17.14. I make an award in connection with this item in terms similar to those contained in paragraph 557 of the Sastry Award quoted above.

17.15. The State Bank of India and other banks will be free to give such salary and allowances as they deem fit to a workman during the period of suspension so long as the amount of such salary and allowances is at a rate not less than what is provided under this award and I direct accordingly.

CHAPTER XVIII

Item No. 16: PROCEDURE FOR TERMINATION OF EMPLOYMENT AND TAKING OTHER DISCIPLINARY ACTION

18.1. On behalf of the All India Bank Employees Association, it is submitted that the procedure for taking disciplinary action and termination of employment as laid down in paragraphs 520 and 521 of the Sastry Award should be maintained as judicially interpreted from time to time excepting the provisions under paragraph 522(1) which should be deleted. Para 522(1) of the Sastry Award runs as under:—

“In cases not involving disciplinary action for misconduct and subject to clause (6) below, the employment of a permanent employee may be terminated by three months’ notice or on payment of three months’ pay and allowances in lieu of notice. The services of a probationer may be terminated by one month’s notice or on payment of a month’s pay and allowances in lieu of notice.”

Clause (6) of Paragraph 522 refers to cases of contemplated closing down of an establishment or of retrenchment of more than five employees.

18.2. A similar demand has been made by the All India State Bank of India Staff Federation and the State Bank of India Staff Union, Andhra Pradesh.

18.3. The State Bank of India Employees Association, Bengal Circle, has in respect of this item, made a claim in terms following:—

“Reasonable standing orders should be framed and approved by the Court to regulate the conduct and relationship of bank employees including cases of disciplinary action. For this purpose a joint committee should be formed at each circle with equal number of representatives from employees and employers with a chairman elected by each section at alternate meetings.”

18.4. The Indian Overseas Bank Employees Union has claimed as under:—

"A committee consisting of representatives of the Union and the management at all levels should be immediately formed. No action against any employee be taken without proper consideration of such a committee."

18.5. The All India Bank of Baroda Employees Federation has submitted as follows:—

"Services of an employee should not be terminated unless he is punished by a Court of law on a charge of moral turpitude. In case it is decided to take any disciplinary action against any employee the proper enquiry proceedings should be conducted".

18.6. The All India Bank Employees Federation has made the following demands:—

"(i) Services of an employee should not be terminated except when he is found guilty of embezzlement or misconduct or when there is a case for bona fide retrenchment.

(ii) If an employee wants to leave service, notice for one week or one week's pay in lieu thereof should be treated sufficient.

Disciplinary Action

A co-ordination committee of the elected members of workers and the management at all levels should be immediately formed. The committee should be re-formed after fresh election once after every three years, the outgoing members being eligible, for the same. No action against any employee be taken without the consent of such a committee. Standing rules be framed in consultation with the Federation.

Misconduct

The provisions of the Sastry Award in this respect should be changed in the following manner:—

Clauses (a) to (d) set out the activities and/or behaviour which should not be considered as misconduct.—

(c) 'disorderly' and 'indecent' behaviour should be considered as "minor misconduct."

(f) When an employee gets acquitted from a competent court of an offence upon prosecution, the management should not be allowed to hold departmental enquiries again for the same offence and the employment of the workman concerned should continue unhindered.

(g) If after conducting a departmental enquiry on charges other than those of which he has been acquitted, no charge has been established against the workman concerned, he shall be reinstated in his original post and full emoluments with retrospective effect be paid.

(h) When it is decided to take disciplinary action against an employee, such decision should be communicated to him within 7 days from the date of cause of action and the employees should be served with a charge-sheet clearly stating therein the nature of the lapses with copy of the evidence on which the charges rest. Without prior service of charge-sheet, and reply thereto received and examined, no employee should be suspended prior to this all. In all enquiry proceedings, the employee concerned should have the right to call for production of any relevant documents that are in the possession of banks and to cross-examine any witness of the bank. The employees required to participate in an enquiry either as representatives or as witnesses should be treated as on special leave or duty. The employees should have the right to appeal to the highest authority in the management or to any other competent authority within 45 days if an employee is not satisfied with the decision of the enquiry officer. No employee should be dismissed pending such appeal.

(i) Grievances of employees lodged with the management against the conduct of any officer of the bank should be enquired into within 15 days of such report and in such enquiry the aggrieved employee

concerned should have a right to be present along with his representative. Officers found guilty upon such enquiry should be given appropriate punishment.

- (j) In every case the officer holding the enquiry in any proceedings should be above the rank of the officer who will issue the charge-sheet.
- (k) The employees should have access to their service record/book and/or file on demand."

18.7. In making its demands the Vadodra Rajya Bank Nekar Sangh has followed the same pattern as the All India Bank Employees Federation with some variations. It has claimed that the services of an employee should not be terminated except when he is involved in an offence meriting dismissal or when there is a case for bona fide retrenchment. It has claimed that certain further acts should not constitute misconduct. It has further claimed that after the employees are held innocent by the enquiry officer and reinstated they should be paid full salary of the suspension period and this should not be left at the discretion of the management.

18.8. The Indian Banks Association has submitted that the provisions contained in paragraph 522(1) of the Sastry Award relating to procedure for termination of employment and disciplinary action do not require any substantial alteration. It has sought certain modifications therein, stating that the procedure was found to be cumbersome and tending to delay the disposal of cases requiring prompt action. It has submitted that this Tribunal should direct that the granting of adjournment or adjournments of hearing in connection with disciplinary proceedings should be discretionary with the management, that such adjournments should not be for more than seven days in the aggregate during the entire course of proceedings on applications of an employee and that an employee against whom disciplinary proceedings are being taken may be represented by any colleague in the same department and not by a union representative. It has sought the inclusion of twenty-three more items in the list of acts and omissions set out in paragraph 521(4) of the Sastry Award as constituting gross misconduct, and has asked for the inclusion of eight further items as constituting minor misconduct, in the list of items set out in para 521(6) of the Sastry Award.

18.9. The Bombay Exchange Banks Association has submitted that the procedure laid down in paragraph 521 of the Sastry Award was very cumbersome and involved and that the said paragraph should be replaced by the procedure and provisions contained in the Model Standing Orders framed under the Industrial Employment (Standing Orders) Act, 1946, which were applied in other industries with suitable additions to acts of misconduct and other matters peculiar to the banking industry. It has also submitted that the workmen's demand that clause (1) of paragraph 522 of the Sastry Award should be deleted, was unreasonable and unjustified.

18.10. The State Bank of India has opposed the demands of the workmen for constitution of joint committees. It has submitted that paragraph 521 of the Sastry Award should be replaced by a set of rules similar to those contained in Model Standing Orders framed by the Central Government under the Industrial Employment (Standing Orders) Act, 1946, with suitable additions to the list of acts of misconduct to bring in features special to the banking industry.

18.11. The Northern India Banks Association has claimed that a specific power of discharge should vest in the management.

18.12. The Indian Overseas Bank Ltd., has in its written statement stated as follows:—

"The provisions of the Sastry Award in this behalf in toto should be allowed to continue in force as we find in actual practice that the provisions do really safeguard the interests of the workmen in full measure and that there should not be any variation thereto."

18.13. Other banks have opposed some of the demands of the workmen.

18.14. Item 16 in Schedule II to the Order of Reference dated the 21st March 1960 has led to considerable controversy as regards matters embraced by it. Several banks have made a claim under this item for enlarging the definition of the terms "gross misconduct" and "minor misconduct" as given in the Sastry Award and to include therein various acts and omissions which, according to them, should be regarded as constituting gross misconduct or minor misconduct. On behalf of some of the workmen's organisations a claim has been made under this item that certain activities and/or behaviour should not be regarded as misconduct.

1. What I have to consider is whether under this item such claims could be entertained. The words used in the Order of Reference are "Procedure for termination of employment and taking other disciplinary action." The word "procedure" is the key word in this item. What is referred to is the procedure for termination of employment and taking other disciplinary action. The constitution of certain acts or omissions into gross misconduct or minor misconduct cannot be regarded as a matter of procedure, and I cannot see my way, whatever may be the merit of the claims, to entertain the demands made by some of the banks and workmen's organisations in this connection.

18.16. On behalf of some of the workmen's organisations demands are made under this item relating to the grounds which would justify the termination of a workman's employment. The said demands do not relate to procedure and would equally not be covered by this item.

18.17. On behalf of some of the workmen's organisations, it is claimed that the directions given by the Sastry Tribunal in paragraph 522(1) of the Award relating to termination of employment in cases not involving disciplinary action, for misconduct, should be deleted. It is urged that the words "procedure for termination of employment" are wide enough to cover the demand made under this head. The words "procedure for termination of employment" do not stand by themselves. They have been followed by the words "and taking other disciplinary action". The words "other disciplinary action" clearly indicate that the termination of employment referred to in this item is by way of disciplinary action. Regarding this item as a whole, I am of the view that any dispute relating to the termination of employment otherwise than by way of disciplinary action is not covered by this item. Apart from what is stated above, what can be dealt with under this item is the procedure for termination of employment, which postulates that the procedure may ultimately in a given case result in the termination of employment. The workmen's claim, as amplified before me, was to the effect that there should be no termination of employment at all otherwise than by way of disciplinary action. Such a claim is not a claim relating to procedure for termination of employment, even if the words "termination of employment" were wide enough in the context in which they are used, to cover cases of termination of employment otherwise than by way of disciplinary action, contrary to what I have held above. A claim has been made relating to notice to be given by a workman when he wants to terminate his employment. The same is not covered by this item. Thus a number of demands made on behalf of the workmen as well as the banks do not fall within the ambit of this item and cannot be dealt with by me.

18.18. As regards the claim by the All India Bank of Baroda Employees Federation that services of an employee should not be terminated unless he was "punished by a court of law on a charge of moral turpitude", apart from any other consideration, there is no merit in the demand. A workman may be guilty of gross misconduct even without committing an offence punishable in a court of law. Moral turpitude is not of the essence of such misconduct in connection with bank employees. There is no reason why the banks should be under an obligation to retain in service persons who are guilty of gross misconduct even though they may not have committed an offence involving moral turpitude.

18.19. As regards the demand for constituting a committee of representatives of the union and the management and the demand that no action against an employee should be taken without proper consideration by such a committee, I am unable to accede to the same in the circumstances prevailing at present in the banking industry or in the country as a whole. It is not necessary to interfere with the right of the management to take disciplinary action in the banking industry.

18.20. On behalf of some banks it is submitted that the procedure laid down in the Sastry Award is found to be cumbrous and that it tends to delay the disposal of cases requiring prompt action.

The procedure laid down in the Sastry Award in connection with taking disciplinary action will be found along with other matters in paragraphs 520 and 521. The said paragraphs provide as under:—

"520. Under the subject of disciplinary action we deal with dismissal, suspension, warning or censure, fine, the making of adverse remarks and the stoppage of an increment.

521. A person against whom disciplinary action is proposed or likely to be taken should, in the first instance, be informed of the particulars of the charge

against him; he should have a proper opportunity to give his explanation as to such particulars. Final orders should be passed after due consideration of all the relevant facts and circumstances. With this object in view we give the following directions:—

- (1) By the expression "offence" shall be meant any offence involving moral turpitude for which an employee is liable to conviction and sentence under any provision of Law.
- (2) (a) When in the opinion of the management an employee has committed an offence, unless he be otherwise prosecuted, the bank may take steps to prosecute him or get him prosecuted; and in such a case he may also be suspended.
- (b) If he be convicted he may be dismissed with effect from the date of his conviction or be given any lesser form of punishment as mentioned in sub-paragraph (5) below.
- (c) If he be acquitted, it shall be open to the management to proceed against him under the provisions set out below in sub-paragraphs (9) and (10) *infra* relating to discharges. However, in the event of the management deciding after enquiry not to continue him in service, he shall be liable only for termination of service with three months' pay and allowances in lieu of notice. And he shall be deemed to have been on duty during the period of suspension, if any, and shall be entitled to the full pay and allowances minus such subsistence allowance as he has drawn and to all other privileges for the period of suspension; provided that if he be acquitted by being given the benefit of doubt he may be paid such portion of such pay and allowances as the management may deem proper, and the period of his absence shall not be treated as a period spent on duty unless the management so direct.
- (d) If he prefers an appeal or revision application against his conviction and is acquitted, in case he had already been dealt with as above, and he applies to the management for reconsideration of his case, the management shall review his case and may either reinstate him or proceed against him under the provisions set out below in sub-paragraphs 9 and 10 *infra* relating to discharge, and the provisions set out above as to pay, allowances and the period of suspension will apply, the period upto-date for which full pay and allowances have not been drawn being treated as one of suspension. In the event of the management deciding, after enquiry not to continue him in service, the employee shall be liable only for termination with three months' pay and allowances in lieu of notice, as directed above.
- (3) If after steps have been taken to prosecute an employee, or to get him prosecuted, for an offence he is not put on trial within a year of the commission of the offence, the management may then deal with him as if he had committed an act of "gross misconduct" or of "minor misconduct", as defined below; provided that if the authority which was to start prosecution proceedings refuses to do so or comes to the conclusion that there is no case for prosecution it shall be open to the management to proceed against the employee under the provisions set out below in sub-paragraphs 9 and 10 *infra* relating to discharge, but he shall be deemed to have been on duty during the period of suspension, if any, and shall be entitled to the full wages and allowances and to all other privileges for such period. In the event of the management deciding, after enquiry, not to continue him in service, he shall be liable only for termination with three months' pay and allowances in lieu of notice as directed in sub-paragraph (2) *supra*. If within the pendency of the proceedings thus instituted he is put on trial such proceedings shall be stayed pending the completion of the trial, after which the provisions mentioned in sub-paragraph (2) above shall apply.
- (4) By the expression "gross misconduct" shall be meant any of the following acts and omissions on the part of an employee :
 - (a) engaging in any trade or business outside the scope of his duties except with the permission of the bank;

- (b) unauthorised disclosure of information regarding the affairs of the bank or any of its customers or any other person connected with the business of the bank which is confidential or the disclosure of which is likely to be prejudicial to the interests of the bank;
 - (c) drunkenness or riotous or disorderly or indecent behaviour on the premises of the bank;
 - (d) wilful damage or attempt to cause damage to the property of the bank or any of its customers;
 - (e) wilful insubordination or disobedience of any lawful and reasonable order of the management or of a superior;
 - (f) habitual doing of any act which amounts to "minor misconduct" as defined below, "habitual" meaning a course of action taken or persisted in notwithstanding that at least on three previous occasions censure or warnings have been administered or an adverse remark has been entered against him;
 - (g) wilful slowing down in performance of work;
 - (h) gambling or betting on the premises of the bank;
 - (i) speculation in stocks, shares, securities or any commodity, whether on his account or that of any other persons;
 - (j) doing any act prejudicial to the interests of the bank, or gross negligence or negligence involving or likely to involve the bank in serious loss;
 - (k) giving or taking a bribe or illegal gratification from a customer or an employee of the bank;
 - (l) abetment or instigation of any of the acts or omissions abovementioned;
- (5) An employee found guilty of gross misconduct may :
- (a) be dismissed without notice, or
 - (b) be warned or censured, or have an adverse remark entered against him,
 - (c) be fined, or
 - (d) have his increment stopped, or
 - (e) have his misconduct condoned and be merely discharged.
- (6) By the expression "minor misconduct" shall be meant any of the following acts and omissions on the part of an employee :
- (a) absence without leave or overstaying sanctioned leave without sufficient grounds;
 - (b) unpunctual or irregular attendance;
 - (c) neglect of work, negligence in performing duties;
 - (d) breach of any rule of business of the bank or instruction for the running of any department;
 - (e) committing nuisance on the premises of the bank;
 - (f) entering or leaving the premises of the bank except by an entrance provided for the purpose;
 - (g) attempt to collect or collecting monies within the premises of the bank without the previous permission of the management or except as allowed by any rule or law for the time being in force;
 - (h) holding or attempting to hold or attending any meeting on the premises of the bank without the previous permission of the management or except in accordance with the provisions of any rule or law for the time being in force;
 - (i) canvassing for union membership or collection of union dues or subscriptions within the premises of the bank without the previous permission of the management or except in accordance with the provisions of any rule or law for the time being in force;
 - (j) failing to show proper consideration courtesy or attention towards officers, customers or other employees of the bank; unseemly or unsatisfactory behaviour while on duty;
 - (k) marked disregard of ordinary requirements of decency and cleanliness in person or dress;

- (1) incurring debts to an extent considered by the management as excessive;
- (7) An employee found guilty of minor misconduct may:
 - (a) be warned or censured; or
 - (b) have an adverse remark entered against him, or
 - (c) have his increment stopped for a period not longer than six months.
- (8) In all cases in which action under paragraphs (3), (5) or (7) may be taken, the proceedings held shall be entered in a book kept specially for the purpose, in which the date on which the proceedings are held, the name of the employee proceeded against, the charge or charges, the evidence on which they are based, the explanation and the evidence, if any, tendered, by the said employee, the finding or findings with the grounds on which they are based and the order passed shall be recorded with sufficient fullness, as clearly as possible, and such record of the proceedings shall be signed by the officer who holds them.
- (9) When it is decided to take any disciplinary action against an employee such decision shall be communicated to him within three days thereof.
- (10) The procedure in such cases shall be as follows:—
 - (a) An employee against whom disciplinary action is proposed or likely to be taken shall be given a charge-sheet clearly setting forth the circumstances appearing against him and a date shall be fixed for enquiry, sufficient time being given to him to enable him to prepare and give his explanation as also to produce any evidence that he may wish to tender in his defence. He shall be permitted to appear before the Officer conducting the enquiry, to cross-examine any witness on whose evidence the charge rests and to examine witness and produce other evidence in his defence. He shall also be permitted to be defended by a representative of a registered union of bank employees, or, with the bank's permission, by lawyer. He shall also be given a hearing as regards the nature of the proposed punishment in case any charge is established against him.
 - (b) Pending such inquiry he may be suspended, but if on the conclusion of the enquiry it is decided to take no action against him he shall be deemed to have been on duty and shall be entitled to the full wages and allowances and to all other privileges for the period of suspension; and if some punishment other than dismissal is inflicted the whole or a part of the period of suspension, may, at the discretion of the management, be treated as on duty with the right to a corresponding portion of the wages, allowances, etc.
 - (c) In awarding punishment by way of disciplinary action the authority concerned shall take into account the gravity of the misconduct, the previous record, if any, of the employee and any other aggravating or extenuating circumstances that may exist. Where sufficiently extenuating circumstances exist the misconduct may be condoned and in case such misconduct is of the "gross" type he may be merely discharged, with or without notice or on payment of a month's pay and allowances, in lieu of notice. Such discharge may also be given where the evidence is found to be insufficient to sustain the charge and where the bank does not, for some reason or other, think it expedient to retain the employee in question any longer in service. Discharge in such cases shall not be deemed to amount to disciplinary action.
- (11) Where the directions given above conflict with the procedure or rules in force in any bank regarding disciplinary action they shall prevail over the latter. There may, in such procedure or rules, exist certain provisions outside the scope of the directions given by us above enabling the bank to dismiss, warn, censure, fine an employee or have his increment stopped or have an adverse remark entered against him. In all such cases also we think that the provisions set out in clauses (8) and (9) should apply, and we direct accordingly.

- (12) It also seems to us necessary that a bank should decide which officer shall be empowered to take disciplinary action in the case of each office or establishment and that it should also make provision for appeals against orders passed in disciplinary matters to an officer or a body not lower in status than the manager, who shall if the employee concerned so desirous in a case of dismissal hear him or his representative before disposing of the appeal. We direct accordingly and further direct that the names of the officers or the body who are empowered to pass the original orders or hear the appeal shall from time to time be published on the bank's notice boards, that an appeal shall be disposed of as early as possible, and that the period within which an appeal can be referred shall be forty-five days from the date on which the original order has been communicated in writing to the employee concerned."

18.21. Paragraphs 518 and 519 of the Sastry Award provide *inter alia* as under:—

"518. *Service certificate*.—Every employee who is dismissed or discharged shall without avoidable delay be given a service certificate.

519. *Issue of notices and orders*.—Any notice, order, charge-sheet, communication or intimation which is meant for an individual employee, shall be in a language understood by the employee concerned. In the case of an absent employee notice shall be sent to him by registered post with acknowledgment due."

18.22. The Sastry Tribunal has, after careful consideration, made detailed provisions relating to the procedure for taking disciplinary action. It was urged at the hearing that the enquiry before a domestic Tribunal should be as simple as possible consistent with the observance of the principles of natural justice. As a general proposition, that statement has considerable force. Where, however, detailed provisions have been laid down and parties have been following such procedure for a number of years, it does not seem to me to be right to scrap the procedure has led to gross abuse or has defeated the purpose for which it was laid down. There is no such evidence led before me. As a matter of fact, the Indian Banks Association has submitted that the provisions relating to procedure for taking disciplinary action do not require any substantial alteration. The workmen have, by and large, claimed its retention. There does not appear to me to be any case for making any substantial changes in the procedure so laid down.

18.23. A demand has been made on behalf of the Bombay Exchange Banks Association and on behalf of the State Bank of India that these provisions should be replaced by a set of rules similar to those contained in the Model Standing Orders framed by the Central Government under the Industrial Employment (Standing Orders) Act, 1946. The Sastry Tribunal has provided for most of the matters appearing in the Model Standing Orders relating to the procedure for disciplinary action and it is neither necessary nor expedient to replace the same.

18.24. It was pointed out to me that it may some times happen that an employee on whom a notice, order, charge-sheet, communication or intimation in connection with disciplinary proceedings when it is sought to be served declines to receive the same and proceedings are some times held up by reason thereof. It is necessary to provide for such a situation. I direct that if a workman refuses to accept any notice, order, charge-sheet, written communication or written intimation in connection with disciplinary proceedings when it is sought to be served upon him, such refusal shall be deemed to be a good service upon him, provided such refusal takes place on the presence of at least two persons including the person who goes to effect service upon him. Where such notice, order, charge-sheet, communication or intimation is sent by registered post with acknowledgment due, the same shall, at the discretion of the officer of the bank concerned, be deemed to have been duly served upon the workman, if the same has been refused by the workman.

18.25. A complaint has been made in connection with adjournment of disciplinary proceedings. It is submitted that adjournment of such proceedings should not be for more than seven days in the aggregate during the entire course of the proceedings on application of the employee. However much it may be desirable, both in the interest of the employers and the employees, that disciplinary proceedings should be expeditiously taken and disposed of, it is not possible to prescribe any such period. One cannot contemplate all exigencies and provide a fixed

period in advance. However laudable may be the object behind this demand, the same cannot be granted.

18.26. On behalf of some of the banks it is claimed that in disciplinary proceedings workmen should not be allowed to be represented by "a union representative." The Sastry Tribunal has in terms stated that "he (workman) shall also be permitted to be defended by a representative of a registered union of bank employees". There is no necessity for making any change in this provision.

18.27. Having considered all the demands, in my view, no other changes are necessary.

18.28. I accordingly make an award in connection with item 16 prescribing the same procedure as the one laid down by the Sastry Tribunal "for termination of employment and taking other disciplinary action" in paragraphs 520 and 521 and in paragraphs 518 and 519 to the extent quoted above subject to the modifications indicated above as regards banks governed by this award.

CHAPTER XIX

Item No. 17. DATE OF EFFECT OF THE NEW AWARD AND OPTION, IF ANY, TO BE GIVEN TO THE EXISTING EMPLOYEES TO RETAIN THEIR PRESENT TERMS AND CONDITIONS OF SERVICE.

19.1. The All India Bank Employees Association has submitted that the new award should apply to all categories of workmen with effect from 1st April 1959. It has further submitted that "the right of option should only be given in respect of pay-scales, dearness allowance and house rent and compensatory local allowance, taken together" and that "the date of option should also be from 1st April 1959". It has submitted that in no case, existing rights and privileges of the employees should be curtailed in any manner. The only demand made by the All India Bank Employees Federation and by the Vadodra Rajya Bank Nekar Sangh, under this head is that "in no case and at no stage the existing rights, benefits and privileges of the employees should be adversely affected by the new award. The All India State Bank of India Staff Federation and the State Bank of India Staff Union, Andhra Pradesh, have made demands similar to those of the All India Bank Employees Association, save and except that they have not expressly raised any plea about the date of option being from 1st April 1959. The State Bank of India Employees Association, Bengal Circle, has pleaded that the award should be given effect to from 1st April 1959. It has further demanded that "the present employees will have the option to continue under the existing conditions or to adopt the award that may be given herein." The Bank of Baroda Employees Federation has submitted that the award should apply to all categories of workmen with effect from 1st April 1959, and that the date of option, if any, should also be from 1st April 1959. The only demand made under this head by the Indian Overseas Bank Employees Union, Madras is that the award should have retrospective effect from 1st April 1959.

19.2. The State Bank of Patiala (All Cadres) Employees Association has pleaded that the award should be made applicable from 1st April 1959 and that no rights, benefits and privileges enjoyed by an employee of the bank as on 31st March 1960 should be altered to the prejudice of the employee concerned. The Allahabad Bank Employees Union has submitted that the new award should have retrospective effect as from 1st April 1959, that no rights, benefits and privileges enjoyed by the employees under the previous award should be curtailed or altered to the prejudice of the employee and that provisions for option for any employee to retain the present terms and conditions of service should be made in the award. The Cochin Commercial Bank Employees Association has submitted that the award should be given retrospective effect from 1st April 1959 and that all employees be given the option to continue any existing benefits which they are enjoying under the present bank award or under any rules made by the bank management or under any other laws or part thereof. The Employees Association of the Union Bank of Bijapur and Sholapur has submitted that the new award should apply to all categories of employees with effect from the date of its first representation of grievances for revision of pay scales.

19.3. The Indian Banks Association has submitted that the appropriate date for the new award to come into operation should be the date on which such award becomes enforceable under the law and that "there is no scope for giving

retrospective effect thereto". The Bombay Exchange Banks Association has submitted that no question arises of giving retrospective effect to the new award as unless a specific demand for a specific date on which the award should be effective was referred to the Tribunal, the Tribunal had no jurisdiction to direct that the award should come into effect retrospectively, and that the Tribunal had also no jurisdiction in terms of section 10(4) of the Industrial Disputes Act, 1947, to direct the award becoming effective retrospectively. It is further submitted that having regard to the well-established principles of industrial law on the subject of giving retrospective effect, there was no case for giving any retrospective effect to the new award and that the Supreme Court had laid down that if the demands made were so excessive that no employer could reasonably be expected to concede the same, it would be wrong to give retrospective effect from the date of the presentation of the demands, and that the said rule was fully applicable to the present case. It has further submitted that no option should be given to the existing employees on any of the matters referred to the Tribunal as it was contrary to principle to make the banks maintain two sets of service conditions simultaneously, that the workmen having made demands must abide by the decision on those demands. The State Bank of India has also taken more or less a similar stand. The Indian Banks Association, on behalf of the State Bank of Patiala, has submitted that "the bank has never been subjected to any award," that the new award should not be made applicable retrospectively and that the bank has no objection to the present employees being given the option to retain their present pay, dearness allowance and other allowances and benefits in their totality. It has also submitted that no option should be given to pick and choose the best from each of the sets of service rules.

19.4. The Northern India Banks Association has pleaded that "the new Award should apply to workmen from the date of the order of the Award and not from any prior date." The Travancore-Cochin Bankers' Association has pleaded that its member banks may be allowed to continue to pay the present emoluments and that the award should be made applicable only from the date of its publication. The National Bank of Lahore has in this respect left "the decision of the contended matters" to this Tribunal and has prayed for "an award being given keeping in view the rights of the employer and the employee". The Bharatha Lakshmi Bank has submitted that since the year 1953 it is working under negotiated mutual agreements between the employees and the management of the bank, the last of which expired on 31st December 1959, which has brought the service conditions of the employees nearer to the service conditions under the Sastry Award as applicable to 'D' Class banks. It has further submitted that if the new award is made applicable with retrospective effect, it might lead to hardship for the bank, and that therefore the new award should be made applicable from the date of its publication. The Jaya Lakshmi Bank has pleaded for the application of the award from the date of its announcement or publication in the Gazette and that any changes which are going to be made should not have retrospective effect. The Miraj State Bank has pleaded that the award that may be made applicable to it should be made so applicable only from the date of its publication in the Official Gazette as required by the provisions of section 17 of the Industrial Disputes Act, 1947, and that any earlier date fixed in this connection would cause serious hardship to the bank and should not, therefore, be so fixed. The Andhra Bank has submitted as under:—"Stenographers were ranked with Accountants, when our pay scales were low and this was followed under our Agreement with the Union. As the nature of work they do is purely clerical, they should be placed on Award clerical scales. The existing employees should have the option either to continue under the present service conditions or to be categorised as clerks. They will not be eligible to any future revision that may be made in the Accountants cadre. We have already given notice of change of service conditions to our Union on the above lines." "The option should not have retrospective effect. We have Head Cashiers who are placed in the pay scales of Accountants. They are in charge of cash and attend to development work in addition to getting credit reports, etc. They must have the option either to be categorised as clerks under the Award benefits or as officers in Accountants' scale prescribed by the management and in the latter case they will not be treated as workmen. The date of option will not have retrospective effect."

19.5. The Indian Overseas Bank has pointed out that in that bank there are three new types of allowances namely, (1) Hindi Language Allowance, (2) Good Conduct and Regular Attendance Allowance and (3) Key Allowance which are being paid to certain employees and it has pleaded that when the scales of salary and special allowances granted by this Tribunal come into force, the bank

should be at liberty to withdraw these allowances even from those employees who are now drawing those allowances as it is contended that the present recipients of these allowances cannot claim the scales of salary and allowances that may be granted by this Tribunal and at the same time insist on payment of the aforementioned allowances and it is urged that if the employees so choose they may be given the choice to opt *in toto* for the privileges and benefits they are now enjoying and they should not be allowed to get the better of the two sets of pay and allowances.

(i) **Date of Effect of the New Award**

19.6. On behalf of the workmen a claim has been made that the new award should come into operation from 1st April 1959. On the other hand, it is contended on behalf of the banks that the new award should come into operation from the date on which the award becomes enforceable under the law. In this connection, a reference may be made to the provisions contained in section 17A of the Industrial Disputes Act, 1947. Section 17A, to the extent that it is relevant, provides as under:—

"17A. (1) An Award (including an arbitration award) shall become enforceable on the expiry of thirty days from the date of its publication under section 17:

Provided that—

- (b) if the Central Government is of opinion, in any case where the award has been given by a National Tribunal, that it will be inexpedient on public grounds affecting national economy or social justice to give effect to the whole or any part of the award, the appropriate Government, or as the case may be, the Central Government may, by notification in the Official Gazette, declare that the award shall not become enforceable on the expiry of the said period of thirty days.
- (2) Where any declaration has been made in relation to an award under the proviso to sub-section (1), * * * the Central Government may, within ninety days from the date of publication of the award under section 17, make an order rejecting or modifying the award, and shall, on the first available opportunity, lay the award together with a copy of the order before * * * Parliament * * *
- (3) Where any award as rejected or modified by an order made under sub-section (2) is laid before * * * Parliament, such award shall become enforceable on the expiry of fifteen days from the date on which it is so laid; and where no order under sub-section (2) is made in pursuance of a declaration under the proviso to sub-section (1), the award shall become enforceable on the expiry of the period of ninety days referred to in sub-section (2).
- (4) Subject to the provisions of sub-section (1) and sub-section (3) regarding the enforceability of an award, the award shall come into operation with effect from such date as may be specified therein, but where no date is so specified, it shall come into operation on the date when the award becomes enforceable under sub-section (1) or sub-section (3), as the case may be."

Under the provisions contained in sub-section (4) of section 17A therefore an award will come into operation with effect from such date as may be specified in the award and where no date was so specified, it would come into operation on the date when the award becomes enforceable under the provisions of the said section. I have to consider the date from which the new award should come into operation.

19.7. Shri Dudhia, the learned advocate who appeared on behalf of the All India Bank Employees Federation, drew my attention to a decision of the Labour Appellate Tribunal of India in the case of Nellimarla Jute Mills Company Ltd. and Staff Union, Nellimarla Jute Mills, reported in 1953 I.L.L.J. page 187, wherein the Labour Appellate Tribunal has laid down, at page 176, as under:—

"There is no vested right in any party as to from what particular date the award should be given effect to. It is on a consideration of the totality of circumstances, such as, how long the previous award has been in force, whether the demand of the workmen was exaggerated or reasonable, the conduct of the parties in the course of the dispute and

so many other factors, that the date from which the award is to be given effect to is fixed by the tribunal. The annual financial burden which the award is likely to cast upon the concern is also one of the relevant considerations."

In that case, the Labour Appellate Tribunal had agreed with the decision of the Industrial Tribunal that the award should be given effect to from the date of the reference.

19.8. It was strongly urged on behalf of the banks that the Tribunal had no jurisdiction to make this award operative from a date prior to the date of the Order of Reference. It was urged that unless there was an industrial dispute raised as regards the date from which relief should be given by means of an award and unless such a dispute was referred to the Tribunal, it would have no jurisdiction to make the award operative with retrospective effect from a date prior to the date of the reference. There is considerable force in this contention.

19.9. The banks also contend that most of the disputes now raised were the subject matter of enquiry by various Tribunals and the Bank Award Commission, that the Sastry Tribunal itself had visualised the possibility of the all India working class consumer price index number rising above the level at which it had fixed the rates of dearness allowance and had made provision in case of such a rise and that the conditions of service being well-regulated and well-considered, there was no case for giving retrospective effect to any award that I might make. On behalf of the banks, very strong reliance was placed on the decision of the Supreme Court in the case of Linton Ltd. and another and their employees, reported in 1959 (I) LLJ. p. 431. At page 445 of that report the Supreme Court, in dealing with the question of giving retrospective effect to an award has expressed itself in terms following:—

"The only other point which requires consideration is the question of the date from which the new scales of pay should come into effect. The industrial tribunal fixed 1 January 1954, on the ground that the union had presented its charter of demands to the appellant for the first time towards the end of December 1953. We are unable to agree with the tribunals below that the circumstance that a charter of demands was presented in December 1953 is a good ground for giving retrospective effect to the new scales of pay. The charter of demands presented by the union consisted of 20 items and in the matter of the wage scale what the union demanded was in some cases more than 50 to 75 per cent increase on the existing scales of pay. Obviously, the demands were exorbitant and the management was justified in refusing to accept the demands *in toto*. We are, therefore, unable to agree that retrospective effect should be given to the new scales of pay from 1 January 1954. The award was made on 18 August 1955, and it was published on 6 October 1955. We think that it will be more just to bring the new scales of pay with effect from 1 November 1955, and we direct accordingly."

It is urged on behalf of the banks that the observations of the Supreme Court in that case are applicable with even greater force to the facts of the present case. In the present case, the charter of demands was submitted by the All India Bank Employees Association in the month of April 1959. The All India Bank Employees Federation, the All India State Bank of India Staff Federation and several unions, associations and federations have submitted demands on behalf of the workmen employed in banks. The Indian Banks Association has filed a statement showing the financial burden for the year 1959 if the demands of the All India Bank Employees Association were to be granted, without including the additional burden which might result from enhanced rates of overtime wages, officiating allowance, leave concessions, interest on the provident fund, liberal provisions for leave, reduced hours of work, special gratuity, risk insurance, etc. It is shown that if the demands of the Association were granted in regard to the clerical staff the percentage of increase in the financial burden for 11 'A' Class banks would vary between 102.01 per cent and 168.81 per cent, for 6 'B' Class banks it would vary between 114.69 per cent and 149.22 per cent and for 4 'C' Class banks it would vary between 152.33 per cent and 211.40 per cent. As regards the subordinate staff, it is shown that the percentage of increase, for the aforesaid 'A' Class, varies between 145.11 per cent and 200.92 per cent, for 'B' Class banks it varies between 111.71 per cent and 171.98 per cent and for 'C' Class banks it varies between 162.14 per cent and 238.83 per cent. The demands of the All India Bank Employees Federation are still more extravagant. I have set out the demands made by various workmen's organisations under various heads in other parts of this award. Some of the

demands were not even warranted by the terms of reference. Demands have been made even on behalf of persons who are not 'workmen' within the meaning of the definition of the term "workman" under the Industrial Disputes Act, 1947. To indicate the extreme nature of the demands, I may refer to the statement filed by the All India Bank Employees Federation showing the total remuneration demanded by it on behalf of stenographers employed in banks falling within its A and B groups. As regards banks in group A, the total remuneration demanded by way of salary and dearness allowance for a stenographer at the all India working class consumer price Index No. 167 in the series 1944=100, is Rs. 350 in the first year of service and Rs. 963 in the 21st year of service and as regards banks in group B it is Rs. 306.25 in the first year of service and Rs. 918.75 in the 20th year of service. This represents a demand only under a single head apart from the other benefits sought to be claimed under various heads including triple retiring benefits consisting of provident fund, gratuity and pension. The demands made by the All India Bank Employees Association include a demand for abolition of areas, and the grant of three retiring benefits. In the reply filed by the Bombay Exchange Banks Association it has been stated that the approximate percentage increase that would result if the demands made by the All India Bank Employees Association were granted would be 53.3 per cent so far as the four Exchange Banks for which calculations were made. It is further stated that "the actual percentage increase will be higher if the various factors excluded in estimating the cost of the demands are included as also the adjustments made in the case of employees drawing more than the maximum under the award scales. The percentage is likely to be in the neighbourhood of say 60 per cent". In respect of the demands of the employees of the State Bank of India presented by the State Bank of India Employees Association (Bengal Circle), the State Bank has estimated that if all the demands were granted in relation to the award staff, the burden would increase by Rs. 7,25,36,000.

19.10. The demands made cannot but be characterised as exorbitant, and the banks would be justified in refusing to accept the demands *in toto*.

19.11. The hearing before me in this Reference was concluded in the month of October 1961. I thereafter took up the hearing of Reference No. 2 of 1960 in connection with the dispute between the Reserve Bank of India and its workmen being Class II and Class III staff and also in connection with the dispute between the Reserve Bank of India and its workmen being Class IV staff, which took some time. I thereafter heard Reference No. 3 of 1960 in connection with bonus.

19.12. The financial year of banks commences from 1st of January of each year.

19.13. Having considered very carefully all aspects of the matter in my view it would be fair and just if I direct that the 1st of January 1962 is the date from which effect should be given to this award as regards the matters hereinafter mentioned, save as otherwise expressly provided in this award. I accordingly direct that, save as otherwise expressly provided, this award shall come into operation with effect from 1st January 1962 in respect of the matters following:—

- (i) Categorisation of banks and areas,
- (ii) Scales of pay,
- (iii) Method of adjustment in the scales of pay,
- (iv) Dearness allowance,
- (v) Special allowances, house rent allowance, officiating allowance, hill allowance and fuel allowance,
- (vi) Provident fund, pension and gratuity.

19.14. In respect of all other matters, this award will come into operation on the date when the award becomes enforceable under the provisions of section 17A of the Industrial Disputes Act, 1947. As regards all matters in respect whereof this award will come into operation with effect from the date when it becomes enforceable as aforesaid, all the existing provisions will continue to operate, notwithstanding anything herein contained, until this award comes into operation in respect of all such matters. For instance, for the purpose of calculation and payment of overtime, the existing provisions will continue to apply from 1st January 1962 till the date when the award becomes enforceable under the provisions of section 17A, notwithstanding the fact that the new scales of pay, dearness allowance, etc. have come into operation in the meantime.

(ii) Option if any, to be given to the existing employees to retain their present terms and conditions of service

19.15. In dealing with the question of option the Sastry Tribunal grouped matters as follows:—

- (1) Pay, dearness allowance, special allowance, house rent allowance and officiating allowance.
- (2) Provident fund.
- (3) Gratuity and pension.
- (4) Bonus.
- (5) Leave rules.
- (6) Working hours and overtime.
- (7) Conditions of service other than working hours and overtime, and
- (8) Amenities, e.g. canteen, club-house, payment of taxes, etc.,

It laid down that no option should be given in respect of leave rules, working hours and overtime, conditions of service other than working hours and overtime and amenities except as otherwise provided for in its Award. It took the view that there would be no choice in respect of "other allowances" and "medical relief", except as otherwise provided for in its award, and directed that in these matters the awarded terms would apply to all workmen. The Sastry Tribunal further laid down that no option should be given to a workman "to choose the pre-existing scales of pay and allowances in so far as they continue to apply to him for his future service in the bank". It stated that the intention of the Tribunal was that the award should not in any way diminish the existing pay, dearness allowance and special house rent and officiating allowances of workmen and that to the extent to which the aggregate of pay and the aforesaid allowances, as awarded fell short of such aggregate of pay and the aforesaid allowances as on 31st January 1950 "the difference should be kept up, and should be continued as a temporary adjustment allowance until the same is absorbed by further annual increments in the scale awarded."

19.16. The Labour Appellate Tribunal, observed that "with certain minor exceptions, the option should cover the totality of those conditions of service which have a financial aspect." It permitted the option to be exercised in respect of (1) pay, dearness allowance, house rent allowance, special allowance and officiating allowance, and added to the list other allowances like hill allowance and fuel allowance and the special increments given to graduates and holders of banking diplomas, (2) provident fund, (3) gratuity and pension, (4) leave rules, (5) working hours and overtime and (6) payment of taxes by banks on behalf of employees. The Labour Appellate Tribunal allowed each individual employee an option to elect for his existing conditions of service in respect of the aforesaid items and directed that the election must be made within five months of the date of the pronouncement of Labour Appellate Tribunal's decision and that the same should be made in writing and presented to the head of the office or the branch in which the employees concerned was working and that in case of a failure to make an election as aforesaid, it was to be deemed that the employee had elected for the new conditions of service. It further provided that during the period intervening between the date of his election and the date on which the Labour Appellate Tribunal's decision become enforceable, the employee should be treated as governed by the conditions of service prescribed by the Labour Appellate Tribunal and in the event of his electing the old conditions, necessary adjustments were to be made after his election. The Labour Appellate Tribunals also preserved the options given under the Sastry Award on specified topics.

19.17. A demand has been made before me that in no case and at no stage, the existing rights and privileges of the employees should be adversely affected by this award. A demand of a similar nature was made before the Sastry Tribunal and before the Labour Appellate Tribunal, in appeal and the same was negated by both the Tribunals. As observed by the Labour Appellate Tribunal "a provision on these lines would have the extraordinary effect of keeping alive two sets of scales and allowing the employee to jump from one scale to the other and back again, according as one scale or the other with the lapse of time becomes favourable to him; that is to say, the workman is given an option which remains alive throughout his service and may be exercised repeatedly." The demand cannot be regarded as reasonable and the same is rejected. The option given can only be an individual option to be exercised once and for all. The option should extend only to the totality of the service conditions under the heads under which the option is given.

19.18. As regards members of the clerical staff and the subordinate staff employed in banks which are governed by the provisions of the Sastry Award as modified or provisions similar thereto, the provisions contained in this award are, by and large, very favourable to them. There are only few changes which may not be favourable to them. The question of option can really arise only in the case of those employees whose service conditions are considered better than those provided under this award. For the exercise of option, the matters in respect whereof such option should be exercised are grouped as under:—

- (1) Scales of pay, dearness allowance, special allowance, house rent allowance, officiating allowance, hill allowance, fuel allowance and provident fund.
- (2) Leave rules.
- (3) Gratuity and Pension.

As regards workmen employed in the State Bank of India and its Subsidiaries group I will consist of all items mentioned therein except provident fund.

19.19. As regards group 3, I have already made the requisite provision in other parts of this award.

19.20. As regards matters set out in group 1, the option will have to be exercised in respect of the totality of the provisions in connection with the said matters existing immediately prior to 1st January 1962 and the totality of the provisions contained in this award in connection with those matters.

19.21. As regards matters in group 2, the option will have to be exercised in respect of the totality of the provisions in connection with the same existing immediately prior to the date when this award becomes enforceable under section 17A of the Industrial Disputes Act, 1947 and the totality of the provisions contained in this award in connection with the same.

19.22. I direct that all workmen employed in banks on the date when this award becomes enforceable under the provisions of section 17A of this Industrial Disputes Act 1947 will have the right to exercise the option in respect of the matters set out in each of the aforesaid groups within four months from the said date. The option shall be exercised in writing which shall be delivered to the head of the office or the branch in which the employee concerned may be working. On failure to exercise the option in respect of any group of matters in the manner aforesaid within the time specified, the workman concerned would be deemed to have chosen the totality of the provisions contained in this award in connection with such group of matters. During the period intervening between the date of the exercise of such option and the respective dates on which the provisions of this award in respect of the aforesaid groups of matters come into effect, I direct that the workmen, who were governed by the provisions of Sastry Award, as modified or to whom provisions similar thereto were applicable or who were employed in banks falling within Class C under this award including banks in the Excepted List, will be provisionally governed by the provisions of this award and that other workmen, will be provisionally governed by the existing provisions. On their exercising the option or on their failure to exercise the option as aforesaid, the necessary adjustments should be made. The right of option given in this chapter is not in derogation of the right of option provided in any other part of this award.

CHAPTER XX

Item No. 18 : NEED FOR INTERIM RELIEF

20.1. Before the main hearing of the reference commenced, various applications were made on behalf of workmen claiming interim relief. All these applications have been referred to in the Introductory chapter. On 14th December 1960 I have given my award in connection with the aforesaid applications. The said award forms part of Appendix C. In view thereof, it is not necessary to deal with this item at this stage.

CHAPTER XXI

Item No. 19: DIFFICULTIES AND ANOMALIES IN THE OPERATION OF THE EXISTING AWARD

21.1. The All India Bank Employees Association has submitted that "the above term of reference is not a valid industrial dispute *per se* in so far as it is in conflict with different Schedules of the Industrial Disputes Act under which this reference

has been made", that the Sastry Award has expired and that the question of removing difficulties or anomalies in the operation of the Sastry Award does not arise for determination. It has made no claims under this item. The All India Bank Employees Federation has submitted that the banks had abused the discretion given to them under the Sastry Award and had taken undue advantage of the vagueness or ambiguity in certain directions given under the Sastry Award. In this connection it has referred to the following 19 instances:—

- (1) *Apprentices (Unpaid or Paid):* The discretion left to the Banks under Paras 124 and 497 of the Sastry Award is grossly abused by the Banks. Banks appoint unpaid apprentices against permanent vacancies and extract independent duties. Further from paid apprentices banks take normal work and utilise their services independently against permanent vacancies and/or leave arrangements without paying the wages of full-fledged clerks and that too for an indefinite period. Banking industry should not be allowed to appoint apprentices. Employees with similar qualifications without any previous experience or training are directly taken as probationers and others as apprentices.
 - (2) *Utilisation of services of confirmed hands against permanent higher posts and question of confirmation, after regular working as such beyond 6 months.*—Para 495 of Sastry Award only deals with confirmation of Probationers (new appointees) and is silent in the above cases and so the Banks are exploiting to the maximum by utilising the confirmed employees' services in permanent higher posts for an indefinite period. Such employees at the time of filling up the permanent vacancies are reverted back and other persons are promoted.
 - (3) *Officiating against higher posts.*—In case of officiating, the Banks ask the employees to officiate in permanent vacancies for an indefinite period and deny them the right to be confirmed as such. Those employees in the Supervisory cadre who are within the purview of definition of 'Workman' are not allowed officiating allowance under the Award whenever they are called upon to officiate as Manager, etc. The Banks pay, if at all, according to their own discretion on the ground that they cease to be workmen while officiating as Managers etc.
- Further, banks ask the employees to officiate for 15 days or less and then show the break of a day or so and again ask them to officiate against the same or give the officiating chance to some other employee, simply to avoid payment of Officiating Allowance.
- Further officiating chances against higher posts are given by the banks to employees of their own choice without caring for the seniority. Paras. 178 and 158 of the Sastry and the L.A.T. Awards respectively have been abused by the banks in the manner stated above.
- (4) *Disciplinary action.*—In case of disciplinary action even when the banks fail to prove any misconduct against the employees concerned, they have a free hand to discharge the workmen from the service by giving one month's notice pay which should not be permitted. Secondly in some cases the complainants and the Enquiry Officers are the same for conducting the enquiry against an employee which is also not proper. Thirdly the discretionary powers given vide Para. 521(b) of the Sastry Award to Banks to pay for the suspension period are very often abused since the directions contained therein are not clear.
 - (5) *Medical Aid.*—Very often the Banks' Medical Officers charge visiting fees when they visit the employees' homes and these charges are deducted from their Medical Aid given under the Award, although such Doctors are salaried employees of the Banks (Part-time or permanent). Thus the employees stand to lose since they could otherwise go to other competent Registered Medical practitioners nearby or to those Doctors who practise in the vicinity and who would charge less visiting fee than the Banks' own appointed Medical Officers. Very often, because of long distance where the Bank's Medical Officer practises, employees have to incur large conveyance expenses to go to him. In such cases employees should be allowed to have medical aid etc. from their own doctors practising nearby. Further the banks very often insist on the certificates (for sick leave purposes) given by the local Registered Medical Practitioners other than those appointed by the banks to get the same verified from Banks' appointed Medical Officers which put the employees to unnecessary

hardships and expenses. Moreover the Banks deny the employees' medical expenses if they use Ayurvedic or Homoeopathic medicines. Para. 450 of the Sastry Award has grossly been abused by the Banks.

- (6) *Leave rules.*—The banks do not give one month's privilege leave after 11 months' service, but give proportionate leave during the year for only 11 months' service put in by him. Paras. 479 to 481 of the Sastry Award are not properly interpreted by the banks in this behalf. Further directions in regard to pay for sick leave on half pay as given in Para. 487 read with Para. 478(14) of the Sastry Award are doubtful. The employers have abused the definition of 'Pay' as defined in Paras. 151, 158, 368(7) of the Sastry Award is not taken into consideration while making payment for sick leave on half-pay basis.

- (7) *Direct Recruitment and Promotions.*—In case of direct recruitment for higher posts, whether for 'Workmen' or 'Non-workmen', the banks do not provide equal opportunities to the existing employees, irrespective of cadres, nor do they circularise the number of future vacancies to be filled up by direct recruitment or by promotions from within, amongst the existing employees nor intimate to them the relaxations which they will enjoy in rules regarding age, educational qualifications, experience, etc. over the direct outside recruits.

Further the system of giving works by different banks is arbitrary and is abused while giving promotion to higher posts in the absence of any clear directions in Paras. 529 and 530 of the Sastry Award.

Further officiating chances against permanent vacancies are given to juniors without disclosing any good and cogent reasons to the employees concerned.

Employees are taken direct but employees working inside in subordinate cadres are not given preference over such direct recruits as Para. 530 does not give clear directions. The banks do not give out duty lists for different categories of employees and very often ask the employees in the lower grade to perform duties of a higher cadre without adequate compensation nor are they confirmed against such higher permanent posts for which their services are utilised for more than 6 months. For instance, Peons, Daftries and/or Hundi-Presenters, etc. are asked to do the work of Daftries, clerks and/or of cashiers respectively, but are not given any allowance nor they are promoted to the higher posts despite their actually working in such posts satisfactorily.

- (8) *Transfers.*—In cases of transfers very often the banks transfer the staff on the ground that they are surplus without any justification and irrespective of length of service of the employee and without following the principle of last come first go.
- (9) *Part-time employees.*—In case of Part-time employees (Para. 123 of Sastry Award) doing work for more than 7 hours a week the banks pay inadequate amount since the Award is silent in this connection.
- (10) *Daily-wage or temporary employees.*—Further in case of Dally-rated or Temporary employees the Banks deprive them of the pay for the 'Off Day' and 'Other Public Holidays' falling in between and interrupt their service by showing a break for a day or so and again re-appoint such persons on daily wages as Para. 508(c) of the Sastry Award is not clear and as such banks are abusing the same.
- (11) *Temporary employees.*—Very often banks employ Godown-keepers, Cashiers, Clerks, Godown Chowkidars, Godown Durvans, etc. on temporary basis against permanent vacancies and are given extension each month by giving appointment letters or extension letters, although the work is of a permanent nature. The banks deny these employees, whether part-time, daily-rated or temporary, the benefits of leave (casual, privilege or sick), medical-aid, Provident Fund, Gratuity etc. despite the directions contained in Paras. 496 and 524 of the Sastry Award.
- (12) *Provident Fund.*—Some banks while calculating the amount of banks' contribution to which the employees are entitled, take into consideration the date of starting the provident fund deduction by the banks and not the date of joining of the employees because of indefinite directions contained in Para. 368(2). Further, permanent Part-time

employees putting more than 7 hours a week are denied the benefit of Provident Fund.

- (13) *Seniority*.—For the purposes of seniority the banks treat the date of confirmation instead of date of joining of the employees.
- (14) *Non-payment of proper allowances*.—Very often the banks ask the members of clerical and subordinate staff to do the work of higher type. The banks do not pay at all or pay only the minimum special allowance and not the highest for the duty performed.
- (15) *Extraction of securities*.—Further the banks wrongly demand security deposits from employees by changing their original designations and/or assigning to the workmen multi-designations, such as Clerks-cum-Cashiers, Clerk-cum-godown-keepers, Peons-cum-Cash Peons, Peons-cum-Hundi-presenters, etc.
- (16) *Overtime*.—Banks are abusing the discretion given to them in Para. 304 of the Sastry Award in regard to half an hour's cushioning period and make it a daily routine and get half an hour extra work without paying overtime. Further very often banks deny payment of overtime to Chowkidars and others who are asked to stay in the bank premises during night for guarding the premises over and above their normal 8 hours duty and only pay a nominal amount under the name of 'Sleeping Allowance' and exploit the employees.
- (17) *Adjustments*.—At the time of adjustments of the salaries of employees while implementing the Awards, the banks commuted even the higher (better) start and/or special increments given to the workmen into number of years of service by dividing the same with the scale prevailing before the Award instead of dividing the same by the scale which was being drawn by the workman concerned at the time he was given such special benefits. The directions of para. 292(4) (a) and (5)(a) of Sastry Award being not clear banks put their own interpretations as a result of which senior hands have either become juniors or at par with those who joined afterwards.
- (18) *Non-payment of proper allowances to employees working in outstation godowns*.—The Godown-keepers and Godown Chowkidars, Durvans or Peons posted at Out-posts attached to an office of a Bank in a particular area are not being paid the emoluments according to the emoluments paid in the office concerned.
- (19) *Change of service conditions*.—Very often the banks change the service conditions of employees appointed against permanent posts by stopping them payment of special allowance attached with such posts after say 6 months or 1 or 2 years' service which adversely affects the service conditions of the workers in the manner of reducing Provident Fund, Dearness Allowance, Bonus, etc. etc."

21.2. The All India State Bank of India Staff Federation and the State Bank of India Staff Union, Andhra Pradesh in their statements of claim have merely craved leave to make submissions in this connection at the time of the hearing. The All India Bank of Baroda Employees Federation has sought clarification about this item and has craved leave to make its submissions after such clarification. The Vadodara Rajya Bank Nekar Sangh has complained of the improper implementation of the Sastry Award by banks, but has not given any instances in support of its statement. It has submitted that a permanent suitable machinery should be established where all anomalies and difficulties could be "thrashed out".

21.3. The Indian Overseas Bank Employees Union, Madras, has made the following demands:—

“(a) *Recruitment of Staff*:

- (1) No probationers should be appointed on pay less than grade pay. There should be no apprentices or part-time employees in the Bank.
- (2) There should be no combined designations of employees (e.g. Typist-cum-Clerk, Shroff-cum-Bill Collector, Cashier-cum-Clerk, Godown-keeper-cum-Clerk, etc.).
- (3) No employee should be, appointed on daily wages basis and such temporary employees should be paid the grade pay.
- (4) All employees serving a total period of three months should be confirmed in the permanent service.

(b) *Transfers:*

- (1) Office bearers of the Union should not be transferred.
 - (2) As far as possible transfers should be made with the consent of the employee, but under no circumstances shall a member of the subordinate staff be transferred without his consent.
 - (3) The practice of forcible transfer of employees even on the plea of exigencies of service should be discontinued.
 - (4) Permanent transfer allowance:
 - (a) Rs. 100 per mensem for Supervisory Staff.
 - (b) Rs. 50 per mensem for clerical and cash department staff.
 - (c) Rs. 30 per mensem for subordinate staff should be paid for a minimum period of three months.
 - (c) Amenities for recreation etc., should be provided to employees at all branches.
 - (d) *Insurance against risks.*—Cashiers, godown-keepers, bill collectors, drivers, arm-guards and watchmen should be adequately insured by the Bank against possible risk on their lives or injury.
- All employees should be entitled for compensation in case of accident involving in death or injury while on duty and the rate of compensation should be on the lines of "Workmen's Compensation Act."
- (e) *Service Record.*—A copy of the service record of an employee with all the remarks incorporated therein in respect of his service should be provided to the employee concerned. No adverse remarks should be entered in such records without intimating the same to the employees concerned and before proper enquiries.
 - (f) *Promotions.*—The following should be the basis for promotions :—
 - (a) Every year of service have to be counted as one point.
 - (b) Additional points have to be counted for the following qualifications:—
 - (i) Graduates—2 points.
 - (ii) Part I CAIIB—1 point.
 - (iii) Part II CAIIB—1 point.
 - (c) Those who possess the maximum points should be considered for promotion according to their seniority.
 - (d) Those members of subordinate staff who have passed matriculation or equivalent examination be elevated to the clerical grade in the first available vacancy.
 - (e) Those members of the subordinates who are sufficiently literate have to be given preference in filling up vacancies in the clerical grade.
 - (f) In filling up the vacancies of Godown-keepers, Bill-collectors, Despatch clerks, Pass Book writers, Filing clerks etc., preference should be given to subordinate staff according to seniority. In the case of new branches where the vacancies in these categories arise, those senior subordinates in other places who are willing to go on promotion have to be accorded the same.
 - (g) There should be no direct recruitment to the officers cadre.
 - (g) *Compilation of Cost of Living Indices.*—The present method should be reviewed and a more rational basis evolved.
 - (h) *Staff Guarantee Fund.*—Collecting subscriptions for this fund should be discontinued forthwith and the amount already collected should be refunded.
 - (i) *Misconduct.*—The following activities should not be considered as misconduct :—
 - (1) Canvassing for Union membership or collection of Union subscriptions of dues within the premises of the bank.
 - (2) Incurring debts to an extent considered by the Management as excessive."

21.4. The Cochin Commercial Bank Employees Association has made the following demands in connection with this item of Reference :—

- (1) Service for all purposes such as gratuity, provident fund, leave, etc., should be counted from the date of joining.
- (2) All annual adjustments such as increments, leave, etc., should be made as on 31st day of March every year.
- (3) Adjustment of dearness allowance according to the rise or fall of the cost of living index number should be made every quarter and once adjusted it should not be raised or lowered till the official figures for the next quarter is published.

21.5. The Allahabad Bank Employees Union (Calcutta) has stated that the provisions relating to recruitment, transfer, training and promotions contained a good number of anomalies in the present award and that they should be clearly defined so as not to leave any further anomalies.

21.6. On behalf of a number of banks it is denied that this term of reference dealing with difficulties and anomalies in the operation of the existing award did not relate to an industrial dispute. The Bombay Exchange Banks Association has pointed out that the termination of the Sastry Award only signified that the workmen were free to make fresh demands and nothing more, and that the Sastry Award as modified still continued in the sense that the rights and obligations flowing therefrom still continued and that this term of reference was in order. The Indian Banks Association has set out various anomalies in the operation of the existing award and have claimed their removal. The Exchange Banks Association has stated that at the time of hearing, it will make its submissions on the difficulties and anomalies encountered in the operation of the Sastry Award as modified. The State Bank of India has also set out certain difficulties and anomalies encountered in the operation of the present award. The difficulties and anomalies pointed out by the banks will be dealt with after the demands of the employees have been considered.

21.7. It has been contended on behalf of some of the employees that this item does not relate to any industrial dispute, in so far as it is in conflict with different Schedules of the Industrial Disputes Act, 1947. This head is intended to cover claims for removal of the difficulties experienced in the working of the Sastry Award, as modified and for removal of anomalies experienced in its actual operation. It is not specified in what way this item of reference conflicts with any of the Schedules of the Industrial Dispute Act, 1947. In fact, under this head workmen represented by various organisations have sought relief in respect of numerous matters. There does not appear to be any substance in this plea.

21.8. It is further contended that the Sastry Award has expired and that the question of removing any difficulties experienced or any anomalies found in the operation of the said award does not arise. The provisions of the Sastry Award, as modified have not ceased to operate and the rights and obligations flowing therefrom still continue until the same have been duly modified. If the position had been otherwise, the banks would have been free to deal with their employees in such manner as they liked until a new award came into force.

21.9. In connection with the claims made under this item, I may in general observe that this item is not intended to cover any case of non-implementation of the Sastry Award, as modified.

21.10. Some of the claims made on behalf of the employees under this item of reference have already been considered under the specific items of reference under which they really fall.

21.11. There is hardly any material placed before me in support of the allegations made against banks.

21.12. I shall first deal with the matters raised by the All India Bank Employees' Federation:

- (1) *Apprentices.*—The All India Bank Employees Federation has made demands in connection with apprentices under item No. 19 as well as under item No. 22. The All India Bank Employees Association has made demands in connection with apprentices under item No. 22. The matter will be dealt with under item No. 22 in chapter XXIII.

- (2) *Utilisation of services of confirmed hands against permanent higher posts, etc.*—No evidence has been led in support of what is stated and no specific demands have been made. Moreover, the promotion policy of banks does not fall within the ambit of this reference. No directions are given in connection with what is stated under this head.
- (3) *Officiating against higher posts.*—No evidence has been led in support of what is stated and no specific demands have been made. As regards the non-payment of officiating allowance to a person who is called upon to officiate as a manager, the matter falls outside the jurisdiction of this Tribunal as the employee who officiates as a manager cannot be regarded as a workman during the time that he so officiates. Some of the complaints relate to the promotion policy of banks which does not fall within the ambit of the terms of the reference. The provision regarding payment of officiating allowance to a person who officiates for a period exceeding 15 days is reasonable. No directions are given in connection with these complaints.
- (4) *Disciplinary action.*—Matters in connection with disciplinary action have been dealt with in chapter XVIII. The dispute in connection with the right of a bank to discharge a workman otherwise than by way of disciplinary action does not strictly fall within the ambit of this term of reference. There is no evidence led about any improper action or abuse of the discretionary powers set out in para. 521(10) (b) of the Sastry Award. No directions are given in connection with these complaints made under this head.
- (5) *Medical Aid.*—The matters concerning medical aid have been dealt with in Chapter XI. I have made the necessary provisions in connection with medical aid in other parts of this award and no further directions are given.
- (6) *Leave Rules.*—The matters in connection with leave rules have been dealt with in chapter IX. No further directions are given.
- (7) *Direct Recruitment and Promotions.*—No evidence has been led about any alleged abuse. The recruitment or promotion policy of banks does not fall within the ambit of the terms of reference. The question of duty lists and allowances has been dealt with in other parts of this award. No further directions are given in connection with what is stated under this head.
- (8) to (14) *Transfers, etc.*—No evidence has been led in support of the statements made under the heads "transfers", "part-time employees", "daily-wage or temporary employees", "temporary employees", "provident fund", "seniority", and "non-payment of proper allowances". The question relating to the non-implementation or improper implementation of the award cannot be considered under this item of reference. The questions relating to the policy of banks in connection with recruitment and transfers do not fall within the ambit of the terms of reference. Save as otherwise provided in other parts of the award, no directions are given in connection with any of the aforesaid matters.
- (15) *Extraction of securities.*—The matter has been dealt with under chapter XII.
- (16) *Overtime.*—No evidence has been led in support of the statements made under this head. The matter concerning overtime has been dealt with in chapter X. No further relief is granted.
- (17) *Adjustments.*—No evidence has been led in connection with the statements made under this head. No directions are given in respect of what is stated under this head.
- (18) *Non-payment of proper allowances to employees in outstation godowns.*—The requisite directions have been given in paragraph 5.195 of this award.
- (19) *Change of service conditions.*—The matter in connection with special allowances has been dealt with in chapter V. No further directions are given.

21.13. A claim has been made by the Vadodra Rajya Bank Nokar Sangh for the establishment of a permanent suitable machinery for thrashing out all anomalies and difficulties in the operation of the existing award. No indication has been given about the type of machinery which was sought to be constituted. No relief is given in connection with this demand.

21.14. In connection with the demands made by the Indian Overseas Bank Employees Union, Madras I find that some of the demands made do not relate to difficulties and anomalies in the operation of the existing award and cannot be dealt with under this head. Some of the demands are in the nature of substantive demands relating to matters not referred to this Tribunal. Some of the matters have been dealt with in other parts of this award. Some of the matters will be dealt with under item 22. Having considered each one of the demands made by the Indian Overseas Bank Employees Union, Madras, save as otherwise provided under this award, no other directions are given.

21.15. As regards the demands made by the Cochin Commercial Bank Employees Association, the same cannot be considered under this item of reference. Some of the matters have already been dealt with in other parts of this award. Save as otherwise provided under this award no other directions are given.

21.16. The difficulties and anomalies referred to by the Indian Banks Association in the operation of the existing award are dealt with below:

- (a) *Consent for extension of probationary period.*—It is pointed out that according to paragraph 495 of Sastry Award the period of probation is 6 months in ordinary cases which can be extended by 3 months on two conditions. One of the two conditions is that consent in writing of the probationer should be obtained before the extension of the period of probation. It is stated that this condition is causing difficulties as the employee concerned does not readily give his consent in writing and adopts evasive methods which result "either in the termination of his employment or in some cases the period is found to have elapsed already". The Association suggests that this condition should be dispensed with and the banks should be required only to give due notice in writing to the probationer if his probationary period is to be extended.

21.17. The Sastry Tribunal has directed that in case of persons whose work was not found to be quite satisfactory during the period of probation but who were likely to improve and give satisfaction if a further opportunity was given to them, the period of probation might be extended by three months provided due notice in writing was given to them and their consent in writing was obtained before the extension of their period of probation and that in all other cases probationers, after the expiry of the period of six months, should be deemed to have been confirmed, unless their services were dispensed with on or before the expiry of the period of probation.

21.18. There is considerable force in the argument advanced on behalf of the banks that where the period of probation is sought to be extended by three months, it should be sufficient for the bank to give a notice in writing to the employee to that effect. If an employee does not desire to continue in the employment of the bank as a probationer for the further period, he is at liberty not to continue further and leave the service of the bank. I do not see any necessity for a provision to the effect that he must consent in writing before his period of probation can be extended for a further period of three months as provided in the Sastry Award. I direct that in the case of a person whose work was not found to be quite satisfactory and whose period of probation, in the opinion of the bank, should be extended for a further period of 3 months in order to afford to him an opportunity to improve and give satisfaction to the bank, it would be open to the bank before the expiry of his period of probation to extend the period of probation for a further period of 3 months by giving notice in writing to him to that effect. If he does not desire to continue as a probationer for such further period, it would be open to him to intimate to the bank to that effect and leave the service of the bank.

Employment of part-time employees for certain types of clerical work

21.19. The Indian Banks Association has submitted that the direction in the Sastry Award that the banks cannot employ part-time workers for ordinary clerical work except for writing pass books in banks in which such practice prevailed has caused great hardship and difficulties to various banks, particularly in the branches

in rural areas where it is stated that the volume of work in the nature of things is limited, uncertain and dependent upon seasonal necessities: It is further stated that in small towns, the work of pass book writing is so limited that it becomes uneconomic for a bank (where such practice did not prevail) to employ a full-time pass book writer and that in several small branches, the banks must either employ a full-time employee who may remain idle for the rest of the time during working hours, or resort to overtime work by entrusting that work to existing full-time employees. It is further stated that certain type of work has to be done only periodically such as submission of statements to the Reserve Bank and the preparation of periodical returns. It has been suggested that in order to remove these difficulties and hardships, liberty should be given to banks to engage part-time workers to the extent of 25 per cent. of the total complement. It is somewhat invidious that banks, which at the time when Sastry Award came into force, were engaging part-time employees to write pass books, could alone employ part-time employees for the purpose whilst banks which did not have part-time employees then could not thereafter employ such employees for that purpose. The remedy however does not consist in having a right to engage part-time workers to the extent of 25 per cent. of the total complement. It seems that the intention of the Sastry Tribunal was not to extend such practice. There is no other item of reference whereunder this demand could be considered by me. This matter has been dealt with by the Sastry Tribunal under a term of reference headed "Method of recruitment terms and conditions of service and procedure for termination of employment or for taking other disciplinary action". On behalf of the employees, an exception is taken to this demand. The employees are against the employment of part-time workmen except sweepers and cleaners. In view of the terms of reference, I do not think it would be proper for me to deal with this claim about the right of the banks to engage part-time workers to the extent of 25 per cent. of the total complement under Item 19. I give no directions in connection with this demand.

(c) *Classification of workmen*

21.20. The Sastry Tribunal has defined the expression "Temporary employee" to mean "an employee who has been appointed for a limited period for work which is of an essentially temporary nature, or who is employed temporarily as an additional employee in connection with a temporary increase in work of a permanent nature". The Indian Banks Association has made a demand that this definition should be enlarged so as to include "a workman who is appointed in a temporary vacancy of a permanent workman or probationer". It is pleaded that under the present provision banks cannot employ a temporary employee as a substitute for a permanent employee who may be on leave. The aforesaid position is somewhat anomalous and the definition needs to be modified. The Indian Banks Association has not confined its demand to this anomalous position. It has also claimed an amendment of the definition in order to include a workman appointed in a temporary vacancy of a probationer. A probationer is appointed so that he may ultimately be absorbed in a permanent vacancy. The very object of employing a probationer is to train a person for filling in a permanent vacancy. The object of having probationers is not to provide supplementary staff for the purpose of doing the regular work of the bank, so that wherever a vacancy occurs in such supplementary staff, even temporarily, such vacancy should be filled in. I direct that for the purpose of this award the expression "Temporary Employee" will mean an employee who has been appointed for a limited period for work which is of an essentially temporary nature, or who is employed temporarily as an additional employee in connection with a temporary increase in work of a permanent nature, and includes an employee other than a permanent employee who is appointed in a temporary vacancy of a permanent workman.

Transfer of staff to lower areas and adjustment into salary scales

21.21. Under the provisions of the Sastry Award as modified it has been provided by paragraph 121(5) that no employee shall have his basic pay reduced by being transferred to an area where a lesser pay scale applies even though such basic pay may be more than the maximum of the scale fixed for the new station, and he will continue to have the usual increments as from such basic pay onwards. Directions to a similar effect have been given by me under this award in paragraph 5.190. The Indian Banks Association has stated that many employees ask for transfers from higher areas to lower areas to suit their own convenience or for domestic reasons and that when such transfers are granted banks have to pay to such employees a higher basic pay. It is suggested that whenever an employee is transferred from a higher area to a lower area at his own request, he should draw basic pay according to the rates applicable to the area to which he is so transferred.

By an amendment made on 19th September 1961, the Indian Banks Association has further pleaded that the "emoluments of an employee who has been transferred from a lower area to a higher area should be adjusted in accordance with the provisions of para. 292 of the Sastry Award and not in accordance with the provisions of para. 121(5) thereof." The matter relating to the method of adjustment on the transfer of an employee from a higher area to a lower area and *vice versa* has been dealt with by me in other parts of this award. In my view, the provisions complained of do not give rise to any difficulties or anomalies. Even on merits the claims made are rejected.

21.22. I will now deal with the difficulties and anomalies pointed out by the State Bank of India. It is pleaded that "under the Sastry Award as modified, the directions relating to hours of work and overtime are not applicable to certain named categories which do not, however, include categories whose work is intermittent (such as drivers), maintenance staff other than sweepers (such as Bhishties, Farrashes, Electricians, etc.) and inspection staff (clerk-typist, etc.)". It is pleaded that by the very nature of their duties, it is difficult and anomalous to apply those directions to them and that they should be included in the exempted categories. I have already dealt with the question relating to the persons to whom provisions relating to the hours of work and overtime should apply under this award. Under paragraph 10.46 of this award, part-time employees as well as the members of the watch and ward staff, bank employees engaged in domestic service, gardeners, sweepers and godown-keepers engaged solely for that work other than those required to remain in attendance at the bank during office hours, have been excluded from the operation of the provisions relating to the hours of work. As regards the other categories of workmen which are sought to be excluded under this head, no evidence has been led in support of the demand. Sufficient materials have not been placed before me which would enable me to enlarge the categories of workmen which are to be excluded from the operation of the award relating to hours of work. Save as provided in this award no further directions are given in connection with this demand.

21.23. It is pleaded that the State Bank of India "has been compelled to pay to godown-keepers, engaged in connection with borrowers' godowns, on the clerical scale, notwithstanding that the qualifications expected of them are lesser than those expected of clerks" and that this category should be paid on a scale slightly above that of subordinate staff, but not on the same scale as clerks. No evidence has been led in support of this demand and no case is made out for providing separate scales for this category of workmen and no such directions are given.

21.24. It is further pleaded that "a difficult and anomalous position arises where a workman whose normal duties do not call for any special allowance under the directions makes a claim for special allowance even for a short period during which he is called upon to perform duties for which a special allowance has been directed" and that it should be made clear that if an employee, who normally is not entitled to the special allowance, performs duties for which an allowance is prescribed for less than fifteen days he would not be entitled to the special allowance or a portion thereof. This matter has been dealt with by me in paragraph 5.288 of this award and no further or other directions are given.

21.25. It is further pleaded that "difficulties have arisen where an employee, whose duties entitle him to a special allowance, ceases to do such duties but nevertheless insist that the special allowance should continue" and that there should be a clarification of the true position, namely, that where specific duties for which a special allowance is prescribed cease to be performed by an employee, he will not be entitled to the special allowance directed for such duties. This matter has already been dealt with by me in other parts of this award.

21.26. It is further pleaded that "it is anomalous that an employee convicted for an offence involving moral turpitude unconnected with the bank's work and consequently dismissed or discharged by the bank, and who is subsequently acquitted by a higher Court, should be eligible for subsistence allowance on his acquittal". I have considered the matter relating to subsistence allowance in an earlier part of this award. I am not giving any special directions in connection with the matter raised.

21.27. It is further pleaded that "it is anomalous that in respect of travelling allowances, road mileage should be admissible when the two stations involved (not connected by rail) are connected by public transport, such as bus or ferry" and that in such circumstances no road mileage should be admissible, but only fare for such transport should be paid. I have considered this question while dealing

with travelling allowance. Considering all the circumstances, I am unable to accede to this demand.

21.28. It is further pleaded that "it is anomalous that payment of halting allowance should be made to an employee deputed for training to a place outside his headquarters." The provision regarding halting allowance is that the same is payable when an employee is absent from headquarters on duty. There is no evidence led before me about the period during which an employee is usually deputed for training. In the present state of the record, it is not possible for me to give any directions other than those which have already been given.

21.29. It is also pleaded that "a difficulty is created in the case of branches of the State Bank entrusted with Government business in the matter of the directions regarding working hours and overtime, in that due to lapsing of Government grants after 31st March every year, there is a clamour from both the public and Government departments for longer hours being worked on certain days, particularly on 31st March", and that "an anomalous situation is also created in connection with the direction with regard to working hours and overtime where a State Government in exercise of its powers directs a branch or branches of the State Bank to work on a holiday or holidays", and that in both these cases there is friction between the State Bank and its employees and between the State Bank and Government Departments or the public. This matter has been considered by me in other parts of my award.

CHAPTER XXII

Item No. 20: THE NEED FOR THE DEVELOPMENT OF THE BANKING INDUSTRY INCLUDING BANKING FACILITIES IN RURAL AREAS;

AND

Item No. 21: SPECIAL NEEDS OF THE STATE BANK OF INDIA AND ITS SUBSIDIARIES, IN RESPECT OF ANY OF THE FOREGOING ITEMS (ITEMS 1 TO 20 APPEARING IN SCHEDULE II TO THE ORDER OF REFERENCE), HAVING REGARD TO THEIR RESPONSIBILITY FOR THE CONDUCT OF GOVERNMENT BUSINESS.

22.1. In connection with the aforesaid two items, on behalf of workmen it is submitted that these items "do not constitute a valid industrial dispute." On behalf of the All India Bank Employees Association it is submitted that the Association has never contested the need of expanding the banking facilities in the country. It is further pleaded that it has always been the contention of the Association that the present policy of bank managements was not conducive and helpful to the growth and development of sound banking facilities in the country, particularly in rural areas, which were starved of the same. It is further submitted that the nature of the work, the responsibility and the developmental role of the State Bank of India and its Subsidiaries were the same and that the pay-scales and other conditions of service of the employees of the Subsidiary banks should be the same as those for the employees of the State Bank of India.

22.2. The All India Bank Employees Federation has stated that it wants the expansion of banking industry in every nook and corner of the country. It has submitted that the banks should extend the same terms and conditions of service to the employees in rural areas as those prevailing in other areas when new branches are opened by the banks in those areas. It has also submitted that the employees of the State Bank subsidiaries should get the same benefits as the State Bank of India's employees.

22.3. The All India Bank of Baroda Employees Federation has supported the claims made in this connection by the All India Bank Employees Association in respect of item No. 20.

22.4. The Cochin Commercial Bank Employees' Association has pleaded that no special concessions should be allowed for development of banks in rural areas. The State Bank of Patiala (All Cadres) Employees' Association has pleaded that the development of commerce, trade, agriculture, cottage industries and small scale industries was closely linked with the development of banking industry, that India has set itself on the road of all-round and comprehensive economic development through planned efforts, that the village was the unit of our economic development, that all our plans for economic development including

the First and Second Five Year Plans have laid great emphasis on the all round development of our rural areas, that India was predominantly an agricultural country and our development plans would not make much headway if we did not give top priority to the rural areas, that finance was the backbone of all economic development plans, that availability of cheap finance for our rural industries and agriculture was very essential and that the banking industry could play a very important role in this behalf by financing agriculture and cottage industries in the villages.

22.5. In regard to the special needs of the State Bank of India and its Subsidiaries, the State Bank of Patiala (All Cadres) Employees' Association has stated that the State Bank of India has clearly laid out its policy of helping the small scale and cottage industries and small business in order to give impetus to the Five Year Plans, that the State Bank of Patiala which is a subsidiary of the State Bank of India was also bound to follow the policy of the State Bank of India in respect of financing the small scale and cottage industries and small business, that like the State Bank of India, the State Bank of Patiala would also be called upon to do the treasury business on behalf of the Government of India and State Government and to act as the agent of the Government and to do other business on behalf of the Government and that the State Bank of Patiala had a very important role to play as an agent of the Government in the area of its operation.

22.6. The Indian Banks Association has denied that any of the above items did not constitute a valid industrial dispute and has stated that it cannot be gainsaid that banking facilities should be extended to rural areas and that the banks must be encouraged to open branches in semi-urban and rural centres. It has submitted that such branches could be run only if they could be made into economic and self-supporting units, if not immediately, then in the near future and that, with this end in view, it was necessary to have certain amount of flexibility and informality as, in the absence thereof, it would be difficult to run branches and popularise banking with the rural population. It has further submitted that the nature of the work at branches of banks in rural areas was of an intermittent character because mostly the trade was seasonal and that it was essential that Class D and Area IV should be retained. It has stated that the hours of work which may be found appropriate for urban areas would not fit in with the environments and the nature of work in rural areas and has submitted that the hours of work should be eight per day including Saturdays, or 208 hours per month, on the lines of hours prescribed by the Shops and Establishments Acts in the various States, that the employees may be required to do overtime not exceeding three hours a week, that leave rules should be more restricted than those prescribed for urban areas, so that "leave entitlements in branches in rural areas may be three-fourths of those which may be prescribed in other areas", and that banks should be at liberty to employ such number of part-time hands as may be thought necessary to meet the requirements of branches in rural areas according to the exigencies of the case. It has further pleaded that places having a population of 50,000 or less should be deemed to be in rural areas and that Area IV should be redefined as comprising all towns and cities having population of 50,000 or less.

22.7. The Bombay Exchange Banks Association has stated that it was difficult to reconcile the demands made on behalf of the All India Bank Employees Association for expansion of banking facilities, particularly in rural areas, with the demand for eliminating area-wise wage structure. It has further submitted that if commercial banks were required to extend their operations to rural area, it should be ensured that these would not involve the banks in uneconomic ventures, the more so as for security reasons the banks would require to have more staff than would be usual in the case of other industries in small areas. They have drawn attention to the fact that work in rural areas would be seasonal and on the whole, intermittent.

22.8. The State Bank of India has pleaded that item 20 was of particular significance in the case of the State Bank of India as a statutory obligation was cast upon the State Bank of India to open during the first five years at least 400 new branches in smaller centres to transact Government business, to provide cheaper finance to small scale industries, co-operative institutions, etc., and to extend banking facilities to rural and semi-urban areas, that the State Bank had carried out its statutory obligation and that out of 416 branches opened upto 30th June 1960, over 353 branches were running at a loss, that the existing pay structure in the remote places in the interior where the State Bank in public interest has to operate cast an unduly heavy and onerous burden,

especially as in the case of banks for security and other reasons a larger staff had to be maintained even in smaller places than would be the case in respect of other concerns. It has submitted that the present wage structure should not be revised upwards and that there should be no attempt to abolish the present Class IV area.

22.9. After referring to the reasons for establishing the State Bank of India, it points out that when it came into being it took over from its predecessor, the Imperial Bank of India, 14,462 employees working in 239 branches and 234 sub-offices, that since then, it has employed about 10,000 employees in addition to providing replacements for retirement, resignation, etc., and had increased the number of branches to 652 and had sub-offices in 233 places. It has pleaded that one of the obligations and duties of the State Bank was to act as the agent of the Reserve Bank and that in that capacity the State Bank had to undertake the following functions:—

- (a) Custody of currency chests;
- (b) Conduct of Government business;
- (c) Currency exchange facilities; and
- (d) Remittance facilities.

As regards custody of currency chests, it has stated that the work of the bank is the following:—

"Currency chests are established at most of the branches and the custody of these chests involves the State Bank undertaking all reasonable precautions for their safety. The measures taken by the State Bank in this regard include the appointment of watchmen or armed guards to maintain constant vigil inasmuch as very large amounts in cash have to be maintained to meet the requirements not only of the State Bank in the discharge of its duties in connection with Government business, but also those of other banks, neighbouring treasuries or sub-treasuries. Further, the State Bank has to accept surplus cash of other banks, sub-treasuries and various Government Departments and has also to determine which pieces of currency notes and coins are unfit for being re-issued and should be withdrawn from circulation."

In connection with conduct of Government business, the State Bank has stated as under:—

"This work involves receipts and payments on behalf of Government and, in conducting this business, the State Bank has to act in close collaboration with the local treasury. This business also involves the State Bank accepting subscriptions in respect of various loans floated by Central and State Governments and receipts and payments on account of Railways, Post Offices, Defence Services etc. The cash work relating to Government business has the following features. All bills relating to lapsable grants and other sanctioned expenditure have to be disbursed at the latest on the 31st March of every year, that being the date fixed for the annual closing of Government accounts. Taxes also have to be deposited by that date for inclusion in the Government Revenues for the particular financial year. The work relating to payment of Government bills and Government receipts is dependent upon the passing of the bills by the appropriate departmental authorities and Treasury Officers, and remittance by the tax payers, which are factors over which the Bank has absolutely no control. It is an usual occurrence for Treasury Officers to pass bills for payment even on the 31st March till late in the evening. As the bills lapse if they are not paid and accounted for in the bank's books on that day, the State Bank in the interest of the public, has necessarily to receive all the bills passed by the Treasury on the closing day and effect payment. This results in the Bank's branches having to work even up to midnight. Moreover, the volume of work to be handled particularly on the 31st March is such that it can neither be avoided nor staggered. The bank's branches are adequately staffed and equipped to handle the normal working transactions and also to handle additional work which is expected on the first few days of the month arising out of Government disbursements and also towards the beginning and end of every quarter when various taxes are to be received. It has been the State Bank's experience that the volume of work which has to be handled on the 31st March every year is far in excess of

the normal volume of work handled by a branch on any day. Further, all payments have to be effected, all receipts accounted for and branch cash and books balanced, before the branches open for business on the next working day. In this connection, it may be mentioned that the State Governments are also authorised to instruct the State Bank to keep a branch or an office open even on a holiday to transact public business [vide (a) subsidiary Rule No. 350 of the West Bengal Treasury Rules, Volume 1, Rule No. 449 of the Bihar Treasury Code, Volume 1]. The State Bank's branches often receive requests from the District Collectors and Treasury Officers to extend the business hours on the last working day of the financial year in order to cope with the large number of bills which are to be passed and paid that day."

22.10. In connection with currency exchange facilities, the bank has stated that the work in this connection relates to the exchange of notes and coins, which the bank has to undertake on behalf of Governments, from other institutions, banks and the general public.

22.11. In connection with remittance facilities, the bank states that its work is as under:—

"Under the Reserve Bank's Remittance Facilities Scheme, the Bank is expected to extend to other banks and to the general public facilities for the remittance of funds at certain specified rates. Under the scheme, scheduled and co-operative banks are entitled to free remittance facilities thrice a week, and this work involves considerable time and, when the rush is heavy, it is necessary on such occasions for the staff to work longer hours."

It has pleaded that if the above functions were to be discharged by the State Bank to the entire satisfaction of the Governments concerned, the Reserve Bank and particularly the public, directions should be given to meet the special needs of the State Bank to the following effect:—

- (1) Area-wise classification should be maintained.
- (2) The existing system of classification of branches according to population should also be maintained.
- (3) The present pay structure and dearness allowance in class IV Areas should not be disturbed.
- (4) The present working hours in branches and offices dealing with Government business should not be retained and it should be left to the State Bank to fix working hours in consultation with the State Government concerned.
- (5) That the present overtime restriction should also not be retained and that it should be left to the State Bank to pay overtime for work in excess of hours of work fixed in consultation with the Government concerned. The rate for overtime should be fixed similarly.
- (6) That privilege leave should not be availed of more than twice during a year and at intervals of not less than three months.
- (7) That casual leave should be permissible only in emergent circumstances.
- (8) That the benefits of the award should not be made applicable to temporary or casual employees.
- (9) That the employees who are employed as watchmen and armed guards and who are permitted to live and sleep on the premises should not be entitled to overtime.
- (10) That such employees should be enjoined in the interest of the protection of the Government treasure to desist from participating in sporadic strikes without giving at least 14 days' notice to enable the State Bank to make alternative security arrangements.
- (11) That the bank should be at liberty to engage part-time godown-keepers or godown-watchmen and that working hours and salary to be paid should be left at the discretion of the bank according to the local needs and circumstances.

22.12. On behalf of the eight Subsidiaries of the State Bank of India it is submitted that these banks were required to open new branches in smaller centres to transact Government business by providing finances to small scales industries,

co-operative institutions etc., and to extend banking facilities in rural and semi-urban areas, particularly in the former Part B States, that since October 1959, the subsidiary banks had opened 36 branches, that a large number of them were running at a loss, that the present wage structure should not be revised upwards and that no attempt should be made to abolish the present Class IV Area, and that the emoluments paid to the employees of the subsidiary banks should not be out of line with those paid to the employees of the State Governments concerned. After referring to the reasons for the setting up of the Subsidiary banks and the objective of establishing them, they point out that the Subsidiary banks are required to act as agents of the State Bank and in that capacity a Subsidiary bank has *inter alia*, to undertake the following functions:—

- (a) Custody of currency chests;
- (b) Conduct of Government business;
- (c) Currency exchange facilities; and
- (d) Remittance facilities.

The nature of the business under these heads is similar to the nature of the business under the same heads referred to by the State Bank of India. It is pointed out on behalf of the Subsidiary banks that the State Governments are authorised to instruct the Subsidiary banks to keep branches or offices open even on holiday to transact Government business (Rule 499 of the Bihar Treasury Code, Volume 1) and that the Subsidiary banks' branches may and do receive requests from the District Collectors and Treasury Officers to extend business hours on the last working day of the financial year in order to cope with the large number of bills which are passed and paid that day. Under the Reserve Bank of India's Remittance Facilities Scheme, the Subsidiary banks are also expected to extend to other banks and to the general public facilities for the remittance of funds at certain specified rates. It has been pleaded that if the above functions were to be discharged by the Subsidiary banks to the entire satisfaction of the Governments concerned, the Reserve Bank of India and particularly the public, directions similar to the directions sought by the State Bank should be given in respect of the subsidiary banks.

22.13. The Northern India Banks Association has submitted that it was common knowledge that India was yet not equipped with banking facilities appropriate to the size of the country, that if banking habit was to be extended to the whole nation in the interest of the maximum mobilisation of reserves for national development, special provision would have to be made for either exempting the banking officers in certain categories of towns from the operation of the Award or fixing the scale of emoluments for such places in conformity with the cost of living in such places and that this was all the more necessary as the earning capacity of such offices was bound to be low. The Travancore Cochin Bankers Association has submitted that banks incorporated in Kerala presented peculiar problems of their own while occupying at the same time a very important place in the rural economy of that part of the country. It has submitted that the Tribunal should accept the view that industries should be established, that they should function, that they should progress and become large units and that at a time when the banks are consolidating their position their progress should not be crippled by casting on them unbearable burdens. The Association has prayed that its members banks should be allowed sufficient time to grow and become bigger and sound units. The Bharatha Lakshmi Bank Limited has submitted that most of the rural areas were not served by any banking institutions, that the mobilisation of the resources available in the rural areas, could best be done only by smaller banks as their operative costs were always lower, that the rural areas could not be saddled with heavy expenditure of bank management, that small banks with their local Directors and Local Advisory Boards in rural areas would be able to know the rural people better and that they were, therefore, best suited to develop rural bankings.

22.14. It has been contended that items 20 and 21 do not and could not form the subject matter of an industrial dispute within the meaning of the Industrial Disputes Act. It was submitted that these two items of reference were not the subject matter of any dispute or difference between bankers and bankers, or between bankers and bank-workmen or between bank-workmen and bank-workmen, nor were these items connected with the employment or non-employment or the terms of employment or with the conditions of labour of any person. It was further submitted that the State Bank of India had not at any time posed this issue so as to constitute it into an industrial dispute, nor was it capable of being constituted as an industrial dispute. It was further submitted that the Order of Reference in so far as items 20 and 21 were concerned, was invalid and *ultra vires*

the powers of the Central Government under sub-section (1A) of section 10 of the Industrial Disputes Act, 1947. It was submitted that section 10(1A) permitted the reference to a National Tribunal of any matter specified in the Second Schedule or the Third Schedule of the Industrial Disputes Act, if the Central Government was of the opinion that any industrial dispute existed or was apprehended in respect of such matters. It was urged that items 20 and 21 were not covered by either the second or the third schedule that they did not constitute the subject matter of any existing or apprehended industrial dispute and that they could not be the subject matter of a valid Order of Reference and therefore could not be the subject matter of adjudication by this Tribunal.

22.15. Under the provisions of section 10(1A) of the Act, it is open to the Central Government to refer any matter appearing to be connected with or relevant to any industrial dispute which exists or is apprehended whether it relates to any matter specified in the Second Schedule or the Third Schedule. An industrial dispute exists in connection with the various items under reference. Items 20 and 21 are relevant to matters in respect whereof industrial disputes exist. The Central Government appears to have specified these items so that the aspects of the matter set out in items 20 and 21 may not be lost sight of, and very probably, so that the attention of the Tribunal may be specifically focussed on these aspects of the matter. Normally, where parties interested are duly represented and the representatives discharge their duties properly, all aspects of the matter relevant to the dispute are brought to the notice of the Tribunal. The mere fact that the referring authority has thought it fit to focus the attention of the Tribunal as well as of the parties to particular aspects of a matter relevant to the disputes would not in any manner affect the Reference or render the Reference in connection with such items beyond the powers of the referring authority.

22.16. No party appearing before me has disputed the need for development of the banking industry, including banking facilities in rural areas. The objects of extension of banking facilities in rural areas *inter alia* are to stimulate and mobilise rural savings in order to help Government's anti-inflationary programme, as well as to provide financial resources for the national development to the maximum extent possible, and to promote industry and agriculture in rural areas and to facilitate the marketing and processing of goods. The functions which the State Bank of India and its Subsidiaries are discharging are also not in dispute. The State Bank of India was established on July 1, 1955, by taking over the establishment of the Imperial Bank of India, in pursuance of the recommendations of the Committee of Direction of the All India Rural Credit Survey. The following two quotations from the Report of the Committee would give an indication of the role that the Committee had envisaged for the bank in the integrated rural credit structure recommended by it:—

"..... object is the creation of one strong, integrated, State-sponsored, State-partnered commercial banking institution with an effective machinery of branches spread over the whole country which, by further expansion (including further, but minor amalgamation where necessary), can be put in a position to take over cash work from non-banking treasuries and sub-treasuries, provide vastly extended remittance facilities for co-operative and other banks, thus stimulating the further establishment of such banks, and, generally, in their loan operations, in so far as they have a bearing on rural credit, follow a policy which, while not deviating from the canons of sound business, will be in effective consonance with national policies as expressed through the Central Government and the Reserve Bank" (General Report, Vol. II, page 404).

"For its part, the State Bank of India should endeavour to be responsive to the needs of co-operative institutions connected with credit, and especially, marketing and processing. (It is of course the Reserve Bank, primarily, which will continue to lend to state co-operative banks and through them to central co-operative banks etc.). The branch extension of the State Bank of India should be co-ordinated and, wherever possible, positively associated with the development of co-operative credit, from the point of view especially of the provision of cheap remittance facilities." (General Report, Vol. II, page 413).

Availability of facilities for quick and cheap remittance of funds is of great importance to the development of banking. Remittance facilities help banks to correct temporary disequilibria in the supply of and demand for funds so that

the available resources are put to the best use. Thus unless free or cheap remittance facilities are available on a large scale, branches cannot be profitably operated either at predominantly deposit-centres or advance-centres. The existence of a State Bank of India's branch at these centres enables commercial and co-operative banks to make fuller use of their funds with the help of the remittance facilities offered by the bank. Apart from remittance facilities, the branches of scheduled banks at various centres can and do avail themselves of overdraft facilities from the State Bank of India against authorised securities which enable them to supplement their resources. The State Bank has been, as the Imperial Bank, had been acting as an 'intermediate' central bank and these credit arrangements have been of a great help to other banks. The strong room of the State Bank of India is also available to the banks for keeping their valuables etc. The State Bank is thus source of strength to the commercial and co-operative banks which would be encouraged to increase their finance to rural areas, where banking facilities are not adequate.

22.17. The State Bank of India is fulfilling some of the objects for which it was established by its branch extension programme. The bank has, between 1st July 1955 to 31st December 1960, opened 427 branches. Considerations which have actuated the State Bank in selecting the centres were, as stated by it, "the existence of Government treasury or sub-treasury, turnover of the treasury, extent of existing banking facilities, availability of warehousing accommodation, present as well as prospective." Out of nearly 400 centres at which new branches were opened, at 64 centres no other banking facilities were available when the bank opened its branches. According to the bank, 77 places were placed with a population below 10,000, 209 were places with a population between 10,000 and 25,000 and 90 were places with a population between 25,000 and 50,000.

22.18. In connection with remittance facilities, the Reserve Bank of India is offering remittance facilities to commercial and co-operative banks under the "Reserve Bank of India Remittance Facilities Scheme" and the State Bank, as an agent of the Reserve Bank, enables these banks to make free remittance of funds thrice a week from their branches to their headquarters. Additional remittance can be put through at premium according to the rates fixed under the scheme. One of the objects of the expansion programme of the State Bank of India was to make available these facilities at a large number of centres situated particularly in the rural and semi-urban areas of the country. The State Bank has stated that with the widening of the bank's net-work of branches, the volume of funds so remitted has increased very considerably. Central and apex co-operative banks are granted by the State Bank free remittance facilities once a week to remit funds from their headquarters to their branches in addition to the remittance facilities available under the Reserve Bank of India Remittance Facilities Scheme. The State Bank has stated that the aforesaid step was taken by it on its own initiative in pursuance of its policy of being responsive to the need of the co-operative sector. It has further stated that from its inception it has been following a policy of being responsive to the requirements of co-operative institutions. The role of the State Bank of India in the field of rural credit, particularly short-term finance for agriculture, is only of a supplementary nature. The Reserve Bank of India Act places upon the Reserve Bank special responsibility for agricultural finance and the Reserve Bank has been providing funds required by co-operative credit sector for financing seasonal agricultural operations and marketing of crops, through State and Central Co-operative banks. According to the State Bank, the co-operatives do require additional finance which the State Bank has been providing. The State Bank has been extending various facilities to co-operative banks, marketing and processing societies, land mortgage banks and industrial co-operatives at concessional rates. The fact that the State Bank of India has a wide net-work of branches spread all over the country would enable the co-operative institutions situated in any part of the country to have banking transactions with institutions situated in any other part of the country. The State Bank has stated that it has played a pioneering role by being the first commercial bank in India to evolve a suitable procedure for making advances against warehouse receipts. The State Bank is playing an important role in the development of the banking industry, including banking facilities in rural areas.

22.19. I am informed that the State Bank and its Subsidiaries have a plan for opening 300 branches for the five year period from 1st July 1960 to 31st July 1965, at centres to be selected from rural and semi-urban areas.

22.20. In making my award under other items of reference, I have borne in mind the functions and taken into account the needs of the State Bank and its Subsidiaries and the need for the development of banking industry including banking facilities in the rural areas and it is not necessary for me under items 20 and 21 to repeat what has been already considered and dealt with under other heads.

22.21. The only demand which has not been dealt with under other heads is the demand made on behalf of the State Bank and its Subsidiaries that the watchmen and armed guards who are part of security staff should be "enjoined by this Tribunal in the interest of the protection of the Government treasure to desist from participating in sporadic strikes without giving at least 14 days' notice to enable the State Bank and its Subsidiaries to make alternative security arrangements." It is necessary that Government treasure should be fully protected during all hours and it is requisite that persons employed to guard such treasure should not participate in sporadic strikes without giving sufficient notice to the State Bank of India and its Subsidiaries to make alternative security arrangements. The question about the circumstances and conditions under which workmen can go on strike does not arise for determination by me in this Reference and I refrain from giving any directions in connection therewith.

CHAPTER XXIII

Item No. 22: ANY OTHER QUESTION CONNECTED WITH, OR ARISING OUT OF, THE FOREGOING MATTERS. (ITEMS NOS. 1 TO 21 IN SCHEDULE II TO THE ORDER OF REFERENCE.)

23.1. Under this item the following claims have been made on behalf of the employees.

(1) *Special Gratuity or Compensation*

All employees should be entitled to payment of special gratuity or compensation in the case of accidents involving death or injury while on duty. The rate of such special gratuity or compensation should not be less than what is provided in the Workmen's Compensation Act.

(2) *Risk Insurance*

Cash staff including cashiers, cash durwans and tellers, drivers, armed guards, godown-keepers, godown chowkidars or watchmen, chowkidars or watchmen, gun retainers, godown durwans, liftmen, and air conditioning plant operators etc., who are subject to hazards from anti-social elements in the discharge of their daily routine duties should be suitably covered by insurance against risk of life or injury at the cost of the bank.

(3) *Classification of Workmen*

Workmen employed by the banks should be classified as hereunder:—

- (i) Permanent workmen.
- (ii) Probationers.
- (iii) Temporary workmen (including daily rated).
- (iv) Part-time workmen.

Each one of the aforesaid categories of workmen should be properly defined. Whilst seeking to define these terms the All India Bank Employees Association has adopted the wording of the definitions given in paragraph 508 of the Sastry Award in connection with "permanent employee", "probationer", "temporary employee" and "part-time employee". The All India Bank Employees Association has pleaded that there should not be any part-time workman in any category except sweepers and cleaners. The All India Bank Employees' Federation has demanded that "there should not be any part-time workman in any category and that part-time employees working for more than 3½ hours a day should be treated as full-time ones". It has also made a demand that a probationer should mean "an employee who is provisionally employed to fill a vacancy or a post and has not been made permanent or confirmed in service or employment". The All India State Bank of India Staff Federation and the State Bank of India Staff Union, Andhra Pradesh, Vijayawada have sought to define a permanent employee as "an employee who has been appointed as such by the Bank or has served the Bank continuously for a period of six months".

(4) Service conditions of Temporary employees (including daily rated) Probationers and Part-time employees

The service conditions, pay and allowances applicable to permanent workmen should also be applicable to temporary employees (including daily rated) probationers and part-time employees.

The probationary period of a workman should not normally exceed three months. However, a probationer, if he has completed a period of six months service in the bank, shall be deemed to have been automatically confined in the permanent service of the bank.

Where daily rated and/or temporary hands remain in employment for an aggregate period of 3 months during any 12 consecutive months they shall be deemed to be probationers and shall be so covered and absorbed against permanent vacancies.

There is also a demand that all employees working for 3 months or more should be deemed as confirmed.

In respect of an employee whether whole time or part-time, daily rated, temporary or probationary, the bank shall give him a written order specifying the kind of appointment, the period of appointment, and the pay and allowances which he would be entitled to.

(5) Apprentices

No appointment of apprentices at all should be permissible to banks. If banks are permitted to have apprentices it should be subject to the following directions:—

- (i) No bank may have at any time at any of its establishment a number of apprentices which exceeds 3% of the total complement of that establishment. Some organisations have demanded that they should not exceed 2% instead of 3% of the total complement.
- (ii) Workmen categorised as apprentices who have already been in the service of the bank for a total period of six months should be deemed to be permanent employees of the bank. The All India Bank Employees' Federation has demanded that apprentices who have already been in the service of a bank for a total period of 2 months should be deemed as probationers and confirmed accordingly. The apprenticeship period should not exceed 2 months during which period the apprentice should receive training from a permanent incumbent.
- (iii) All workmen categorised as apprentices should be entitled to wages as claimed, casual leave, medical expenses and hours of work and overtime and all other benefits in a manner applicable to permanent employees.
- (iv) The services of apprentices during apprenticeship period should not be utilised against any temporary, leave or permanent vacancy, without payment of usual wages.
- (v) No bank should appoint any person as 'unpaid' apprentice.

(6) Godown-keepers, Godown Peons, etc.

Godown-keepers, godown peons, godown chowkidars, godown watchmen or godown durwans should be made permanent on the completion of six months continuous service or of a total period of one year's service, irrespective of the fact whether their services are utilised for a specific godown or various godowns.

(7) Combined Designations

No recruitment should be permitted to the Banks on combined designations at any of its establishments. There is a demand by the All India Bank of Baroda Employees Federation that the Bank of Baroda should be prohibited from giving multiple designations to employees and at least in the bigger branches of this bank this practice should be prohibited. The banks should not be allowed to extract cash security by giving such designations without their doing duties calling for cash security. There should be periodical rotation of duties of all employees.

(8) Transfers

Officers of the Union should not be transferred. If at all any transfers are essential the number should be limited and that too should be effected only with the consent of the employee concerned within the State or language area (language means official language of the place).

No transfer of any member of the subordinate staff should be effected without his express written consent.

Employees on transfer should be provided with housing accommodation or additional allowance to compensate the extra expense incurred by the employees. The emoluments of an employee should not be reduced on transfer. One month's additional salary should be paid to an employee under transfer to enable him to settle down in the new place upon transfer.

Any member of the staff on transfer should be allowed seven days period as preparatory leave before his joining the office in addition to the period required for his joining.

(9) Recruitment

"At the time of recruitment a notice giving therein the actual number of vacancies, the requisite qualification etc. and inviting applications is to be hung upon the notice board in the respective offices at least a fortnight ago. Other conditions being equal first preference is to be given to the employees' relatives. Relatives of employees be given preference subject to requisite qualification, in the employment of the Bank's service, in the same office with them and the present system of not employing the relatives of the employees in the same office despite their requisite qualifications, be discontinued."

"There should be no direct recruitment in supervisory cadre."

(10) Promotion

"Promotion to the Supervisory Grade Seniority-cum-Education-cum-Merit; 60 per cent should be reserved for seniority and 40 per cent for education. (The weightage should be given to each of the above factors)." There is also a demand that there should be no direct recruitment in the supervisory cadre.

Promotion to supervisory grade II should be made on the basis of the seniority of service giving one year of weightage, while counting service, to graduates and C.A.I.B. or C.A.I.B. diploma holders. There should be no age restriction for promotion.

"Those members of the Subordinate staff who have passed Matriculation or equivalent examination be elevated to the clerical grade. Those members of the subordinate staff who are sufficiently literate and intelligent should be given preference second in order of priority".

(11) Retrenchment

"If retrenchment is inevitable and justified, the junior-most employee shall be retrenched first. The retrenched employee shall be paid retrenchment compensation at the rate of one month of salary and allowances for each completed year of service. The justification of retrenching unless agreed by the union, should receive a sanction of the Tribunal appointed under Industrial Dispute Act, 1947, or any other authority in this behalf by appropriate Government, after hearing both the sides". It is further claimed that the retrenched employee shall have a prior right on the bank in the event of new employees being appointed and that such employee should be given three months' pay and all other allowances in lieu of notice. It is pleaded that the closing down of a branch or the termination of the services by the bank should also be included in the term 'retrenchment'.

(12) Reinstatement of Workers

"The reinstated employee's service should be taken as continued one from the date of joining the bank's service including the period of suspension, victimisation, discharge, dismissal, etc. All emoluments normally due to him otherwise should be paid to him even for a period of suspension etc. Such employee

should be given all the advantages of any settlement arrived at on the basis of these demands."

(13) Increase in the strength of the staff

In order to cope with the increasing routine work in the banks and in order to avoid undue hardship to the employees due to overwork, the bankers should make an increase of at least 10% in the strength of the staff in all categories.

(14) Weekly offs and holidays to Armed Guards and Chowkidars

"Armed Guards, Chowkidars and all other members of Watch and Ward Staff should be allowed 'weekly off', National and other Gazetted holidays like other workmen."

(15) Standing Orders

All standing orders should be framed in consultation with the union representatives.

(16) Service Record

"All employees should have access to their Service Record/Book/File on demand."

(17) Service Certificate

"Every employee who leaves service or retires or is dismissed or discharged shall without avoidable delay be given a service certificate, as provided in the Sastry Award".

(18) Service Bonds

"Service Bonds should not be made compulsory as condition for employment. If such a bond is executed by any employee, it should be treated as cancelled. The cost of such bond should be refunded to the employees concerned".

(19) Definition of duties

The Bank of Baroda should assign, in writing, specific duties to employees on their appointment and the duties so assigned should flow strictly from their designations. The bank should discontinue the practice of requiring clerks to work as godown-keepers or telephone-operators.

(20) Advance fixation in pay

"The qualified employees may be given the following additional benefits in the form of advance fixation of pay:—

- (i) Intermediate—One increment.
- (ii) Graduates—Two increments.
- (iii) Double Graduates—Three increments.
- (iv) C.A.I.I.B. (Part I)—One increment.
- (v) C.A.I.I.B. (Part II)—Two increments."

(21) Insurance Rebate

"Insurance rebate at present paid to the employees @ 1/6th of the total emoluments may continue to be paid in future also."

(22) Welfare Fund

"1/10th of the total annual profits earned by the bank should be allocated towards Staff Welfare Fund which shall be administered by a Board of Trustees to be created for this purpose. The Management and the workers shall have equal number of representatives on this Board."

"The bank management should be directed to constitute a special fund for the provision of amenities to the workmen such as sports, recreation, entertainments, etc., and such funds should be replenished every year by contribution from the

management by way of allocations from the net profits. The management of such funds should be entrusted to the coordination committees."

(23) Dearness allowance to pensioners

"Dearness allowance at the rate of 25 per cent of the amount of pension with a minimum of Rs. 35 be paid to all pensioners" as against the 20 per cent. with a minimum of Rs. 20 which is being paid at present by the State Bank of India.

(24) Canteens

"The banks should arrange to provide well furnished canteen and Tiffin Rooms at all their offices."

(25) Quarters for the employees

The Bank should provide employees with quarters on subsidized basis.

(26) Bonus

"Four months' salary including allowances be paid as bonus to all the employees including temporary and part-time employees."

(27) Facilities to participate in domestic enquiries

Representatives of the All India Bank of Baroda Employees Federation "who may be required to participate in domestic enquiries held by the Bank, should be given leave on duty for the period they are away from their places of work in connection with the enquiry. The Federation submits that such representatives should be paid travelling and halting allowances when they are required to leave their places of work, in connection with the enquiry. The rate of travelling and halting allowances shall be the same as demanded under issue No. 4."

(28) Substitutes to be provided by certain categories of employees

"No employee should be compelled by the Bank to provide a substitute whenever he is on leave."

(29) Machinery for settlement of disputes

The following demands and suggestions have been made in connection with this matter:—

"A permanent machinery for settling the disputes arising out of the award and for proper implementation and interpretation etc. of the same should be evolved."

"For the settlement of all disputes cropping up from time to time, a suitable machinery should be evolved in consultation with the Association which is recognised by the Management as a representative body of the employees of the State Bank of Patiala." The Association referred to is the State Bank of Patiala (All Classes) Employees Association.

"Elected representatives of the employees should be taken on all the committees dealing with staff matters."

"For the settlement of all disputes arising from time to time a suitable machinery should be evolved in consultation with the Union representative, the management and the Labour Commissioner."

"Bank management should be directed to constitute co-ordination Committees for the Bank as a whole with representatives of the Management and of the Employees' Union in equal numbers and where there is no Union, representatives elected by the Employees. Such Committees should be constituted at the Branch level also. All disputes, matters and problems relating to the staff including review of the staff position from time to time and recruitment of Clerical and Subordinate staff and their promotion should be entrusted to these co-ordination Committees."

(30) Redress of Grievances

"An employee desirous of the redress of a grievance relating to unfair treatment or wrongful exaction on the part of the bank or a superior shall either himself, or through a representative of registered unions submit a complaint to the manager

or any officer appointed by the manager in this behalf. The employee shall also have the right to endorse a copy direct to the head of the department for information."

(31) *Extension of Award privileges in toto to employees of banks with registered offices outside the State, to their employees working in their offices situated in Jammu and Kashmir State.*

The Tribunal is "requested to direct all such banks whose registered offices are outside the State of Jammu and Kashmir to treat their employees completely at par with those working in offices outside the State of Jammu and Kashmir".

"All Bank employees in Jammu and Kashmir State should be entitled to all benefits of any final agreement arrived at with the Bankers and the Government or the award of the Tribunal and they should be treated completely at par with employees in any other part of the country. Further the provisions of the Industrial Disputes Act should be applicable to the State forthwith."

(32) *Recognition of Union*

"The All-India Bank Employees' Federation, with all its constituent Units be accorded recognition."

"The Tribunal should direct the employers to recognise those unions to which majority of the members belong. The unions recognised by the employers should have the right to negotiate, correspond and do all such acts incidental to and necessary for the purpose of conducting the Trade Union activities. The Bank should provide facilities for all the recognised Unions for collection of subscriptions posting of their notices and such other matters approved by the appropriate Governments". It is claimed that a representative of the union employed in the bank should be given leave when he is required to attend some special work in connection with the trade union conferences and committees.

"All Employees Unions satisfying the criteria for recognition of Trade Unions as adopted by the 16th Indian Labour Conference should be given recognition by the Managements. All recognised Unions should be given the following facilities:—

- (i) Office accommodation and facilities for collection of subscriptions and other dues from members as well as holding of Meetings in the Bank premises after office hours without hindrance to the normal working of the Bank Offices.
- (ii) Duty leave facilities for authorised representatives and office bearers of recognised Unions for bona fide Trade Union activities.
- (iii) Display of Unions' name board and notice board in the Bank premises.
- (iv) Opening of accounts in the name of the Union with respective Banks and deduction of the dues to the Union at the time of salary disbursement by the Bank and crediting the same to the Unions Account under proper letter of authority from the concerned Employees."

(33) *Retention of existing rights and benefits*

"No Rights, benefits and privileges as on 31st March 1959 of any employee shall be altered to the prejudice of the employee concerned."

23.2. It is not necessary to set out *in extenso* the various contentions of the banks in connection with these demands. Wherever necessary I have referred to some of the contentions of the banks whilst dealing with these demands.

23.3. I shall now proceed to deal with the various claims made.

23.4. (1) *Special gratuity or compensation.*—Under this head the employees have made a claim for payment of special gratuity or compensation in the case of accidents involving death or injury while on duty. The Sastry Tribunal has dealt with the claim for compensation under similar circumstances in paragraphs 456 to 458 of its award under a term of reference relating to "Insurance against old age, sickness, death or injury from accident in the course of the discharge of duties." After fully considering the matter the Sastry Tribunal came to the conclusion that it could not "lay down any compulsory directions in the matter." It only recommended that all banks should provide adequate compensation in such cases. The Labour Appellate Tribunal observed that it was not possible for it to give any directions in connection with the matter.

23.5. The Bombay Exchange Banks Association has submitted that such a demand cannot validly arise under item 22 of the reference.

23.6. The All India Bank Employees Association has sought to connect this demand with item No. 6, viz., "pension and gratuity". The demand for compensation in the case of injury resulting from an accident while on duty cannot with any propriety be called gratuity which is a retiring benefit. The demand has been opposed by banks. Even if I had the jurisdiction to deal with the matter, on the present state of the record, I am not in a position to give any specific directions in connection with the same. It is a matter which, in my view, can be more suitably dealt with by the legislature than by a Tribunal. I give no directions in connection with this demand.

23.7. (2) *Risk insurance*.—Under this head insurance is demanded against the risk of life or injury at the hands of anti-social elements for various categories of workmen whilst discharging daily routine duties. The All India Bank Employees Association has sought to connect this demand with item No. 10, viz., "cash deposits, fidelity bonds and other securities to be furnished by the staff". By no stretch of imagination this demand can be connected with that item.

23.8. This demand has been opposed by the Bombay Exchange Banks Association and the State Bank of India on the ground that it does not arise under item 22 of the reference and also on the merits. The demand has also been opposed by other banks. The Sastry Tribunal did not give any specific directions in connection with such a demand even when it had jurisdiction to do so. No directions are given in connection with this demand.

23.9. (3) *Classification of workmen*.—Under this head a demand has been made that workmen should be classified as permanent workmen, probationers, temporary workmen and part-time workmen and that each one of the aforesaid categories should be properly defined. This demand has been linked up by the All India Bank employees Association with item No. 14 viz., "categories of workmen to whom the award of the Tribunal should be applicable."

23.10. The Sastry Tribunal has classified bank employees as 'permanent employees', 'probationers', 'temporary employees' and 'part-time employees' and has defined them as under:—

- "(a) 'permanent employee' means an employee who has been appointed as such by the bank,
- (b) 'probationer' means an employee who is provisionally employed to fill a permanent vacancy or post and has not been made permanent or confirmed in service,
- (c) 'temporary employee' means an employee who has been appointed for a limited period for work which is of an essentially temporary nature, or who is employed temporarily as an additional employee in connection with a temporary increase in work of a permanent nature,
- (d) 'part-time employee' means an employee who does not or is not required to work for the full period for which an employee is ordinarily required to work and who is paid on the basis that he is or may be engaged in doing work elsewhere."

23.11. The All India Bank Employees' Federation has sought to amend the aforesaid definition of a probationer by substituting the words "who is provisionally employed to fill a vacancy or a post" for the words "who is provisionally employed to fill a permanent vacancy or post."

23.12. The All India State Bank of India Staff Federation and the State Bank of India Staff Union, Andhra Pradesh, have demanded by way of an amendment to the definition that a permanent employee should also mean an employee who has served the bank continuously for a period of six months. The All India Bank Employees Association has further pleaded that there should not be any part-time workman in any category except sweepers and cleaners. The All India Bank Employees Federation has gone a step further and has demanded that there should not be any part-time workman in any category whatsoever and has pleaded that part-time employees working for more than 3½ hours a day should be treated as full time ones.

23.13. The Indian Banks Association has pleaded that the present classification as laid down in the Sastry Award should be maintained subject to the modification suggested by it. The Indian Banks Association had under item 19 claimed that

the definition of the expression "temporary employee" as given in the Sastry Award should be amended by adding the words "and includes a workman who is appointed in a temporary vacancy of a permanent workman or probationer" at the end of the definition. Whilst dealing with the said demand I have directed that the definition of "temporary employee" as given in the Sastry Award should be amended by adding at the end the words "and includes an employee other than a permanent employee who is appointed in a temporary vacancy of a permanent workman."

23.14. The Bombay Exchange Banks Association has pleaded that the demand does not arise under item No. 22. Without prejudice to the aforesaid contention it has suggested the following definitions:—

"Permanent workman means an employee who has been appointed as such by the management. A probationer means an employee who is provisionally employed to fill a permanent vacancy or post and has not been made permanent or confirmed in service. Temporary employee means a person who has been appointed for a temporary period which may be specified. A part-time employee is one who does not work full time."

It is further pleaded that the demand that there should not be any part time workmen in any category except sweepers and cleaners was unreasonable and unjustified and if granted would fetter the management's right to operate its business to the best advantage, bearing in mind the special circumstances existing in rural areas and in particular the seasonal character of banking business in those areas. The State Bank of India has taken a stand similar to that of the Bombay Exchange Banks Association.

23.15. For the purpose of this award, it would not be out of place to classify workman and to define the various classes in which workmen fall. Having considered all the demands made both by workmen and the banks, I direct that workmen, for the purpose of this award be generally classified as (a) permanent employees, (b) probationers, (c) temporary employees, and (d) part-time employees. These expressions will have the following meanings for the purpose of this award:—

(a) "Permanent employee" means an employee who has been appointed as such by the bank, (b) "probationer" means an employee who is provisionally employed to fill a permanent vacancy or post and has not been made permanent or confirmed in service, (c) "temporary employee" means an employee who has been appointed for a limited period for work which is of an essentially temporary nature, or who is employed temporarily as an additional employee in connection with a temporary increase in work of a permanent nature and includes an employee other than a permanent employee who is appointed in a temporary vacancy of a permanent workman, and (d) "part-time employee" means an employee who does not or is not required to work for the full period for which an employee is ordinarily required to work and who is paid on the basis that he is or may be engaged in doing work elsewhere. Having considered all aspects of the matter, the demands that there should not be any part-time workmen in any category except sweepers and cleaners, that there should not be any part-time workman at all in any category and that part-time employees working for more than 3½ hours a day should be treated as full time ones are rejected.

23.16. (4) *Service conditions of temporary employees including (daily-rated), probationers and part-time employees.*—No case is made out for providing the identical service conditions for temporary employees, probationers and part-time employees as those provided for permanent workmen. The matter has been dealt with in other parts of the award and no further directions are given in connection therewith.

23.17. The demand that the probationary period of a workman should not normally exceed three months is opposed by the Bombay Exchange Banks Association and by a number of banks. In my view, the demand is not reasonable and the same is rejected.

23.18. As regards the claim for automatic confirmation of a probationer if he has completed a period of six months service in the bank, the matter has been dealt with in other parts of this award and no further or other directions are given.

23.19. There is no merit in the demand that where daily rated and/or temporary hands remain in employment for an aggregate period of 3 months during any 12

consecutive months they should be deemed to be probationers and should be so covered and absorbed against permanent vacancies. The said demand is opposed by the banks and the same is rejected. As regards the demand that all employees working for 3 months or more should be deemed as confirmed, save as otherwise provided in this award no directions are given.

23.20. There is a demand made that banks should give a written order specifying the kind of appointment, the period of appointment and the pay and allowances which a person would be entitled to, on his appointment by the bank as a whole-time employee or as a part-time employee or as a temporary employee or as a probationer. The demand has been opposed by some of the banks. The Sastry Tribunal in paragraph 495 of its award has provided that "on a candidate's appointment as a temporary employee, a probationer or a permanent member of the staff, the bank shall give him a written order specifying the kind of appointment and the pay and allowances to which he would be entitled and that such a written order shall be given on the appointment of a part-time employee also". I give directions similar to those contained in the Sastry Award. I further direct that wherever possible the banks should, except in the case of permanent employees, specify the period of employment.

23.21. (5) *Apprentices*.—A demand has been made that banks should not be permitted to appoint any apprentices at all. This demand is connected by the All India Bank Employees Association with item No. 14, namely, "categories of workmen to whom the award of the Tribunal should be applicable". The All India Bank Employees Federation has raised the question relating to apprentices under this item as well as under item No. 19, namely "difficulties and anomalies in the operation of the existing award." The Bombay Exchange Banks Association has pleaded that this demand does not arise under item 22. There is no merit in this demand. Various persons join a bank as apprentices even for the purpose of passing the C.A.I.B. and C.A.I.B. examinations. On the footing that I have jurisdiction to deal with the matter, the demand is rejected. Various demands have been made in connection with apprentices. I have only jurisdiction to give directions in connection with apprentices who are workmen. I have already given certain directions in connection with apprentices in paragraph 5.192 of this award.

23.22. Serious allegations have been made against banks in connection with the engagement of apprentices which have been denied. There is not much evidence in support of these allegations. The Sastry Tribunal in paragraph 497 of its award has directed that "the period of apprenticeship, except in the case of those who work in banks so as to qualify themselves for the examinations of the Institute of Bankers, should not exceed twelve months". This direction is a salutary one. I give a direction similar to the one given by the Sastry Tribunal.

23.23. The demand that an apprentice who has already been in the service of a bank for a total period of six months should be deemed to be a permanent employee of the bank appears to me to be unreasonable, so also the demand that apprentices who have already been in the service of a bank for a total period of two months should be deemed as probationers and confirmed accordingly. I have carefully considered all the demands made in connection with apprentices. Save as otherwise expressly provided in this award, I do not give any further or other directions in connection with apprentices.

23.24. (6) *Godown-keepers, Godown peons, etc.*—A demand has been made that godown-keepers, godown peons, godown chowkidars, godown watchmen or godown durvans should be made permanent on the completion of six months continuous service or of a total period of one year's service irrespective of the fact whether their services are utilised for a specific godown or various godowns.

23.25. The Bombay Exchange Banks Association has pleaded that this demand does not arise under this term of reference. The State Bank of India has raised a similar objection. Before the Sastry Tribunal a demand was made that godown-keepers should be made permanent after a continuous service of one year or a total service of two years if there was a break. The Sastry Tribunal has dealt with the demand in paragraph 499 of its Award under the terms of reference headed "method of recruitment, terms and conditions of service and procedure for termination of employment or for taking other disciplinary action". In dealing with the matter, the Sastry Tribunal has observed as under:—

"We understand that godown keepers can be classified into two categories: (1) those in charge of godowns maintained by banks generally in large cities for storing goods belonging to several parties to whom advances are made, (2) those who are required to look after one or more godowns belonging generally to one party to whom advances are made

ordinarily for short periods against goods stored in the borrower's godowns, such as in the case of godowns of sugar mills, ginning factories, grain merchants etc. In the case of godown keepers coming under the first category we direct that the period of temporary service should not exceed one year, after the expiry of which they should be placed on the permanent list unless the vacancy itself is a temporary one. In the case of persons coming under the second category whose work is of a temporary nature and whose salary and allowances are generally borne by the parties who are owners of the goods in the godowns, we do not think it proper to insist upon their confirmation even after the expiry of any definite period, particularly as we understand that their emoluments and service conditions in actual practice are not generally different from those of the permanent employees. We however recommend that as far as possible such godown keepers whose work is found to be satisfactory and whose services can be utilized to look after other godowns in the same place or a place nearby or in the clerical establishment of the banks should be made permanent after the expiry of one year."

The claim made before me does not fall within any of the items covered by the reference. Ever, if I had the jurisdiction, the demand as made does not appear to me to be reasonable and I am not giving any directions as claimed.

23.26. (7) *Combined designations*.—It is pleaded that no recruitment should be permitted to the banks on combined designations at any of its establishments. The Bombay Exchange Banks Association has objected to the demand on the ground that it does not arise under the terms of reference. The recruitment policy of banks is not the subject matter of reference before me and this demand cannot be considered under this head. A demand has been made that the banks should not be allowed to extract cash security by giving combined designations without the workmen doing duties calling for cash security. This matter has been dealt with by me in paragraph 12.13 of this award. It is further pleaded that there should be periodical rotations of duties of all employees. This demand has been opposed by the banks. There is no merit in this demand. The demand that the Bank of Baroda should be prohibited from giving multiple designations to its employees is equally without any merit. Save as otherwise expressly provided in this award, no further or other directions are given in connection with the demands made.

23.27. (8) *Transfers*.—Various demands have been made under the heading 'transfers'. The All India Bank Employees Association has sought to link this demand with item No. 4 namely "house rent and other allowances, including travelling and halting allowances and leave fare concessions". The Bombay Exchange Banks Association and the State Bank of India have pleaded that the demands in connection with transfers cannot be made under this item of reference. The demand that officers of the union should not be transferred or that the number of transfers should be limited and should be effected only with the consent of the employee concerned cannot in any sense be connected with item No. 4. I have no jurisdiction to deal with the said demands and no directions are given in connection therewith. Similarly the demands that transfers should only be effected within the State or language area and that no transfer of any member of the subordinate staff should be effected without his express written consent do not fall within the ambit of the terms of the reference and no directions are given in connection therewith. As regards the claims made in connection with what should be provided for an employee on transfer, I have, in other parts of this award, given certain directions in connection therewith. Save as otherwise provided in other parts of this award, I give no further or other directions in respect of the demands made under this head.

23.28. (9) & (10) *Recruitment and Promotion*.—As regards the demands made under these heads, it has been pleaded that the claims made do not fall within item 22. Recruitment and promotion policies of banks do not fall within the ambit of the terms of reference and I have no jurisdiction to entertain the demands in connection therewith. No directions are given in connection with these demands.

23.29. (11) *Retrenchment*.—The Vadodra Rajya Bank Nekar Sangh has made various demands under the head 'retrenchment'. Questions relating to retrenchment policy or how retrenchment should be effected are not covered by the terms of reference and I have no jurisdiction to deal with the same. There are various other demands made in connection with retrenchment like retrenchment compensation, re-employment of retrenched employees etc., which have been dealt with

under the provisions of the Industrial Disputes Act, 1947, and no directions are required to be given in connection therewith. I give no directions in connection with the demands made under this head.

23.30. (12) *Reinstatement of workers.*—In connection with the demands made under this head, save as otherwise provided under this award no directions are given.

23.31. (13) *Increase in the strength of the staff.*

(15) *Standing Orders,*

(16) *Service record, and*

(18) *Service bonds.*

The demands made in connection with the increase in the strength of the staff, standing orders, service record and service bonds do not fall within the ambit of the terms of reference and no directions are given in connection therewith.

23.32. (14) *Weekly offs and holidays to Armed Guards and Chowkidars.*—Demands have been made in connection with "weekly offs and holidays to armed guards and Chowkidars". I have in dealing with the question of hours of work and overtime by paragraph 10—46 of this award provided that members of the watch and ward staff are excluded from the provisions relating to the hours of work and overtime. Save as otherwise expressly provided in this award, I give no directions in connection with these demands.

23.33. (17) *Service Certificates.*—There is a demand made that every employee who leaves service or retires or is dismissed or discharged shall without avoidable delay be given a service certificate, as provided in the Sastry Award. I have in chapter 18 given the requisite directions where a person is dismissed or discharged by way of disciplinary action. Except to the extent aforesaid, the matter cannot be dealt with by me under the present terms of reference. Save as otherwise provided in other parts of this award, no directions are given in connection with the demands made under this head.

23.34. (19) *Definition of duties.*—Demands have been made in connection with definition of duties. I have dealt with the matter relating to the standardization of duties and nomenclature in other parts of this award and no directions are given in connection therewith. A demand has been made on behalf of the All India Bank of Baroda Employees Federation that the Bank of Baroda should discontinue the practice of requiring clerks to work as godown keepers and telephone operators. The Bank of Baroda has opposed this demand. I do not consider it proper to give any such directions and no such directions are given.

23.35. (20) *Advance fixation in pay.*—Demands have been made under this head for additional benefits to certain employees. The matter has been dealt with in other parts of this award.

23.36. (21), (23), (24), (25) & (26) *Insurance rebate, Welfare fund, Dearness allowance to pensioners, Canteens, Quarters for the employees and bonus.*—Demands made under the above heads do not fall within the ambit of the terms of reference and no directions are given in connection therewith.

23.37. (27) *Facilities to participate in domestic enquiries.*—A demand has been made by the All India Bank of Baroda Employees Federation that its representatives who may be required to participate in domestic enquiries held by the bank should be given leave on duty for the period they are away from their places of work in connection with the enquiry. A further demand has been made that such representatives should be paid travelling allowance and halting allowance. The demand is opposed by the bank. Having considered the matter I do not give any directions as demanded and the matter is left to the good sense of the bank.

23.38. (28) *Substitutes to be provided by certain categories of employees.*—Under this head a demand has been made that no employee should be compelled by a bank to provide a substitute whenever he is on leave. This matter does not fall within the ambit of the terms of reference and no directions are given in connection therewith.

23.39. (29) *Machinery for settlement of disputes.*—Demands have been made for the setting up of a permanent machinery for settling the disputes arising out of the award and for the proper implementation and interpretation of the same.

The object of this demand is very laudable. The demand, however, does not fall within the ambit of the terms of reference and I give no directions in connection with the same.

23.40. (30) *Redress of grievances.*—No specific directions are required to be given in respect of what is stated under this head. I give no directions in connection therewith.

23.41. (31) *Extension of Award privileges intoto to employees of banks with registered offices outside the State, to their employees working in their offices situated in Jammu and Kashmir State.*—The provisions of the Industrial Disputes Act, 1947, do not apply to the State of Jammu and Kashmir except to the extent to which the provisions of the Act relate to industrial disputes concerning workmen employed under the Government of India. The matter falls outside the jurisdiction of this Tribunal and no directions are given in connection therewith.

23.42. (32) *Recognition of Union.*—Various demands have been made under this head. Most of the demands do not fall within the ambit of the terms of reference. Demands have been made in connection with leave to be given to the representatives of the unions who attend some special work in connection with the trade union conferences and committees. The matter has been dealt with by me in the chapter relating to leave rules. Save as otherwise provided in other parts of the award, I give no directions in connection with the demands made under this head.

23.43. (33) *Retention of existing rights and benefits.*—A demand has been made under this head that no rights, benefits and privileges as on 31st March 1959 of any employee should be altered to the prejudice of the employee concerned. The demand has been opposed by banks. No such inalienable right can be conferred on the employees and no directions are given as demanded.

23.44. (34) *Employees of the State Bank of Saurashtra who were first in Government service.*—At the hearing of this reference it was pointed out that the State Bank of Saurashtra has about 36 clerks and 35 members of the subordinate staff in its service, who were first in Government service but whose services were subsequently transferred to the bank. These employees are entitled to receive retirement benefits in accordance with the rules applicable to State Government servants. It is stated on behalf of the bank that it has been paying pension contribution to Government at rates fixed by the Accountant General. It is also stated that any revision of emoluments in the case of these employees will require Government sanction. The provisions contained in this award to the extent that they are applicable to the aforesaid employees will be subject to the sanction of the appropriate Government to the extent that the same is necessary.

CHAPTER XXIV

COSTS

24.1. Applications were made by various workmen's organisations for payment of costs incurred by them in connection with this Reference. This Reference has gone on before me for a considerable length of time and considerable material has been placed before me. A number of workmen's organisations were represented by advocates. Considerable costs have been incurred by parties appearing before me in connection with this Reference. The ordinary principle applied by courts in connection with costs is that the costs follow the event. The party which succeeds gets the general costs of the proceeding and the costs of all the issues on which it succeeds and pays to the opposite party the costs of the issues on which it loses. This principle is generally not followed in connection with industrial adjudications, very probably in the interest of the employees and the order usually made is that each party should bear its own costs. There cannot however be any hard and fast rule to that effect.

24.2. As a result of a suggestion made by me, a large number of banks appearing before me have, without prejudice to their legal rights and contentions and in the interests of peace and goodwill in the industry, agreed to meet a part of the expenses incurred by a number of workmen's organisations in connection with these proceedings, which they considered reasonable, bearing in mind the length of the proceedings and the all-India nature of the same, without such action being treated as a precedent. Such workmen's organisations have already

received payment of the same. Quite a large number of representatives of workmen have, in the course of the hearing, also been paid travelling allowance for attending the proceedings of the Tribunal and for halting in Bombay in connection with the proceedings before the Tribunal. There may, however, be left out some persons on the workmen's side who may not have received any sum by way of costs or otherwise on account of the expenses incurred by them. Having taken everything into consideration, I direct that there will be no order as to costs.

CHAPTER XXV

ACKNOWLEDGMENTS

25.1. In the end, I wish to acknowledge the great help and assistance received by me at the hearing of the Reference from counsel, solicitors and advocates and the representatives of the parties appearing before me. I am thankful to them for the dignity and decorum with which the proceedings were conducted and for the high intellectual level that was maintained throughout the proceedings. All of them worked hard and for long to place the respective points of view of the parties before me. But for their help and assistance I would not have been able to do full justice to the matter.

25.2. I express my gratitude to the Honourable Shri Justice H. K. Chainani, Chief Justice of the High Court of Judicature at Bombay, for making available to me, in the main High Court building a chamber for my use and a large room for the office of this Tribunal, and for making available a very extensive hall in the High Court Annexe for holding the sittings of the Tribunal. I am also grateful to him for making available to me the services of Shri S. G. Kulkarni, B.A. (Hons.), LL.B. who worked as my Private Secretary, Shri B. D. Divekar who worked as sheristadar, several clerks, a chobdar and some peons from the members of the High Court staff. I am also thankful to the Government of Maharashtra for allowing me to have the services of Shri Nizamuddin Ahmed, B.Sc. LL.M., Assistant Commissioner of Labour, as the Secretary of the Tribunal. I am also grateful to Shri M. R. Meher, I.C.S. (Retd.), President of the Industrial Court at Bombay for making available to me the services of Shri B. D. Upasani, a very able member on the staff of his office. I am also grateful to the Accountant General, Bombay, for making available to me the services of Shri A. B. Kanakgiri, a senior clerk in his office, to work as accountant in the Tribunal's office.

25.3. I also acknowledge the services rendered by Shri Nizamuddin Ahmed, Secretary of the Tribunal, who during the time that the award was being drafted, worked hard and for long hours on all days including Sundays and holidays, Shri S. G. Kulkarni who worked as my Private Secretary, who took notes of the proceedings which were conducted before me for several days, and who took considerable pains in analysing all the arguments advanced by various parties and in preparing a summary thereof and rendered considerable help whilst I was drafting the award, Shri B. D. Upasani who worked as the Officer Superintendent of the Tribunal and has borne the brunt of the office work of the Tribunal and who has been of considerable assistance whilst I was drafting the award, Shri B. N. Dholakia, my stenographer, to whom I dictated a considerable part of the award and who rendered useful service to me, Shri B. D. Divekar for the meticulous care with which he maintained the heavy record of the Tribunal and Shri A. B. Kanakgiri for efficiently looking after the accounts work of the Tribunal's office. I am thankful to all the members of the staff who worked hard during the time the award was being written and who did not avail themselves of a number of Sundays and holidays.

KANTILAL T. DESAI,

*Presiding Officer,
National Industrial Tribunal
(Bank Disputes)*

BOMBAY;
7th June, 1962.

APPENDIX 'A'

GOVERNMENT OF INDIA
MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 21st March, 1960.

ORDER

S. O. 705.—Whereas the Central Government is of opinion that an industrial dispute exists or is apprehended between the banking companies and corporations specified in Schedule I hereto annexed and their workmen in respect of the matters specified in Schedule II hereto annexed which are either matters in dispute or matters connected with or relevant to the said dispute and that the dispute involves questions of national importance and also is of such a nature that industrial establishments situated in more than one state are likely to be interested in, or affected by, such dispute.

AND whereas the Central Government is of opinion that the dispute should be adjudicated by a National Tribunal;

NOW, therefore, in exercise of the powers conferred by Sub-Section 1 (A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby refers the said dispute to the National Tribunal constituted by the notification of the Government of India in the Ministry of Labour and Employment No. S. O. 704 dated the 21st March, 1960 for adjudication.

SCHEDULE I

1. Allahabad Bank Limited.
2. Ambat Bank Limited.
3. Bank of Baroda Limited.
4. Bank of India Limited.
5. Bank of China.
6. Bank of Behar Limited.
7. Bank of Maharashtra Limited.
8. Bank of Rajasthan Limited.
9. Bharatha Lakshmi Bank Limited.
10. Canara Bank Limited.
11. Canara Banking Corporation Limited.
12. Canara Industrial and Banking Syndicate Limited.
13. Catholic Syrian Bank Limited.
14. Central Bank of India Limited.
15. Chaldean Syrian Bank Limited.
16. Chartered Bank.
17. Cochin Commercial Bank Limited.
18. Comptoir National D'Escompte de Paris.
19. Devkaran Nanjee Banking Company Limited.
20. Eastern Bank Limited.
21. First National City Bank of New York.
22. Gododia Bank Limited.
23. Hindustan Commercial Bank Limited.
24. Hindustan Mercantile Bank Limited.
25. Hongkong and Shanghai Banking Corporation.
26. Indian Bank Limited.
27. Indian Insurance and Banking Corporation Limited.
28. Indian Overseas Bank Limited.
29. Jaya Lakshmi Bank Limited.

30. Jodhpur Commercial Bank Limited.
31. Karnataka Bank Limited.
32. Lakshmi Commercial Bank Limited.
33. Laxmi Bank Limited.
34. Llyods Bank Limited.
35. Mercantile Bank Limited.
36. Narang Bank of India Limited.
37. National Bank of Lahore Limited.
38. National & Grindlays Bank Limited.
39. Nedungadi Bank Limited.
40. Netherlands Trading Society.
41. New Bank of India Limited.
42. New Citizen Bank of India Limited.
43. Oriental Bank of Commerce Limited.
44. Palai Central Bank Limited.
45. Pandyan Bank Limited.
46. Punjab Co-operative Bank Limited.
47. Punjab and Kashmir Bank Limited.
48. Punjab National Bank Limited.
49. Punjab and Sind Bank Limited.
50. Safe Bank Limited.
51. Salem Bank Limited.
52. State Bank of Bikaner.
53. State Bank of Hyderabad.
54. State Bank of India.
55. State Bank of Indore.
56. State Bank of Jalpur.
57. State Bank of Mysore.
58. State Bank of Travancore.
59. South Indian Bank Limited.
60. Thomcos Bank Limited.
61. Travancore Forward Bank Limited.
62. Union Bank of India Limited.
63. United Bank of India Limited.
64. United Industrial Bank Limited.
65. United Commercial Bank Limited.
66. Vijaya Bank Limited.
67. Vysya Bank Limited.

SCHEDULE II

1. Categorisation of banks and areas for the purposes of this adjudication.
2. Scales of pay; method of adjustment in the scales of pay.
3. Dearness allowance with particular reference to the question whether any part of the existing dearness allowance should be absorbed in the basic pay.
4. House rent and other allowance, including travelling and halting allowances and leave fare concessions.
5. Provident fund, including the rate of contribution and the rate of interest.
6. Pension and gratuity.
7. Leave Rules.
8. Hours of work and overtime.
9. Medical aid and expenses.

10. Cash deposits, fidelity bonds and other securities to be furnished by the staff.
11. Uniforms and liveries.
12. Need for maintenance of seniority lists.
13. Age of retirement.
14. Categories of workman to whom the award of the Tribunal should be applicable.
15. Subsistence allowance during period of suspension.
16. Procedure for termination of employment and taking other disciplinary action.
17. Date of effect of the new award and option, if any, to be given to the existing employees to retain their present terms and conditions of service.
18. Need for interim relief.
19. Difficulties and anomalies in the operation of the existing award.
20. The need for the development of the banking industry including banking facilities in rural areas.
21. Special needs of the State Bank of India and its subsidiaries, in respect of any of the foregoing items, having regard to their responsibility for the conduct of Government business.
22. Any other question connected with, or arising out of, the foregoing matters.

(sd) P. M. MENON, 21-3-60

Secretary.

[LR-II-11(48)/6/II.]

Copy forwarded to:—

- *1. All banks.
- 2. The Secretary, Indian Banks' Association, Devkaran Nanjee Building, 17 Horniman Circle, Fort, Bombay-1.
- 3. The Chairman, Bombay Exchange Banks' Association, c/o Chartered Bank, Box No. 558, Bombay-1.
- *4. The General Secretary, All India Bank Employees Association, Katra Shahanshai, Chandni Chowk, Delhi.
- *5. The General Secretary, All India Bank Employees Federation, 26/104, Birhana Road, Kanpur.
- *6. The Secretary, All India State Bank of India Staff Federation, State Bank Building, Fort, Bombay-1.
- *7. The General Secretary, State Bank of India Employees Association, Bengal Circle, 3 Commercial Buildings, 23, Netaji Subhas Road, Calcutta-1.
- 8. All State Government.
- *9. Shri Justice K. T. Desai, Judge, High Court, Bombay.
- 10. Ministry of Finance (Deptt. of E.A.), New Delhi (5 copies).
- 11. C. L. C., New Delhi (20 copies).
- 12. All R. L. C. s.

(sd.) TEJA SINGH SAHNI, 21-3-60
Deputy Secretary.

GOVERNMENT OF INDIA
MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 4th June, 1960.

ORDER

S.O. 1449.—Whereas in the Order of the Government of India, Ministry of Labour and Employment, No. S. O. 705, dated the 21st March, 1960, the Central Government has made a reference (hereinafter referred to as the said reference) under Sub-Section (1A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) to the National Tribunal constituted by the notification of the Government of India in the Ministry of Labour and Employment No. S. O. 704, dated the 21st March, 1960, for the adjudication of an industrial dispute between the banking companies and corporations specified in Schedule I to the said reference;

*Regd. Post Ack. due.

AND WHEREAS the Central Government is of opinion that the said dispute is of such a nature that the establishments in the banking companies and corporations specified in the Schedule hereto annexed are likely to be interested in, or affected by, such dispute;

Now, therefore, in exercise of the powers conferred by Sub-section (5) of Section 10 aforesaid, the Central Government hereby includes in the said reference the banking companies and corporations specified in the schedule hereto annexed.

SCHEDULE

1. Andhra Bank Limited.
2. American Express Company Inc.
3. Bank of Nagpur Limited.
4. Bank of Tokyo Limited.
5. Belgaum Bank Limited.
6. Ganesh Bank of Kurundwad Limited.
7. Indo Commercial Bank Limited.
8. Martandam Commercial Bank Limited.
9. Miraj State Bank Limited.
10. Nadar Mercantile Bank Limited.
11. Pangal Nayak Bank Limited.
12. Rayalaseema Bank Limited.
13. Sangli Bank Limited.
14. State Bank of Patiala.
15. State Bank of Saurashtra.
16. Trivandrum Permanent Bank Limited.
17. Union Bank of Bijapur and Sholapur.

(Sd.) S. N. TULSIANI,

Under Secretary.

[10 (48) 60-LP-II]

Copy forwarded to Shri Justice K. T. Desai, Presiding Officer, National Tribunal (Bank Disputes) High Court, Bombay.

(Sd.) S. N. TULSIANI,

Under Secretary.

GOVERNMENT OF INDIA

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 21st March, 1960

NOTIFICATION

S. O. 704.—In exercise of the powers conferred by Section 7B of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby constitutes a National Industrial Tribunal with headquarters at Bombay and appoints Shri Justice Kantilal Thakordas Desai, Judge, Bombay High Court, as the Presiding Officer of that Tribunal.

(Sd.) P. M. MENON,

Secretary.

[IR. II. 10 (48)/60-I]

GOVERNMENT OF INDIA

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 21st March, 1960

ORDER

S. O. 706.—Whereas by an order of the Government of India in the Ministry of Labour and Employment No. S. O. 705 dated the 21st March 1960, an Industrial

dispute between the employers in relation to certain banking companies and corporations including the State Bank of India and their workmen has been referred to a National Tribunal for adjudication.

Now, therefore, in exercise of the powers conferred by Sub-Section (3) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby prohibits the continuance of the strike in existence in the State Bank of India.

(Sd.) P. M. MENON,
Secretary.

[IR. II-10(48)-80-III.]

APPENDIX "B"

GOVERNMENT OF INDIA

MINISTRY OF LABOUR AND EMPLOYMENT

List of persons who appeared before the National Industrial Tribunal (Banks Disputes) at Bombay.

FOR BANKS

- (1) Sarvashree R. J. Kolah (for sometime), N. V. Phadke and K. H. Bhabha, Crawford Bayley & Co., Solicitors, Bombay, for the Bombay Exchange Messrs. Mulla & Mulla Gracie Blunt & Caroe, Solicitors, Bombay, for the Indian Banks Association, representing 28 Banks.
- (2) Shri N. A. Palkhiwalla, Counsel, instructed by Shri R. Setlur of Messrs. Crawford Bayley & Co. Solicitors, Bombay, for the Bombay Exchange Banks Association, representing 11 Banks.
- (3) Sarvashree Sachin Chaudhary and P. P. Khambata, Counsel, instructed by Shri R. Setlur of Messrs. Crawford Bayley & Co. Solicitors, Bombay, for the State Bank of India.
- (4) Sarvashree Sachin Chaudhary & S. D. Vimadatal, Counsel, instructed by Shri R. Setlur of Messrs. Crawford Bayley & Co. Solicitors, Bombay, for the 8 Subsidiary Banks of the State Bank of India.
- (5) Sarvashree S. P. Sawhney, R. P. Talwar and B. L. Seth representatives, for the Northern India Banks Association, representing 6 banks.
- (6) Shri A. S. Asayekar, Advocate, for the Travancore Cochin Bankers Association. (For sometime).
- (7) Shri D. B. Tilak, Advocate, for the (1) Bharatha Lakshmi Bank Ltd., (2) The Bank of Nagpur Ltd., (afterwards merged with the Bank of Maharashtra Ltd.), (3) The Union Bank of Bijapur and Sholapur and (4) The Chaldean Syrian Bank Ltd.
- (8) Shri C. R. Iyyunni (since deceased) (for sometime) and Shri J. V. Manzil, Advocate, for the Catholic Syrian Bank Ltd.
- (9) Sarvashree N. K. Petigara and J. P. Thacker of Messrs. Mulla and Mulla & Cragie Blunt & Caroe, Solicitors, Bombay, for the Miraj State Bank Ltd.
- (10) Shri S. Narayaniah, Advocate, for the Salem Bank Ltd.
- (11) Shri Rajaratnam, Advocate, for the Nadar Mercantile Bank Ltd.
- (12) Shri R. Balkrishna Kini, representative, for the Pandyan Bank Ltd.
- (13) Shri Raman Kuttl, representative, for the Gododia Bank Ltd.
- (14) Shri K. N. Seshadri Nath, representative, for the South Indian Bank Ltd.

FOR WORKMEN

- (1) Sarvashree. K. T. Sule and D. S. Nargolkar, Advocates, instructed by Sarvashree, (i) A. C. Kakar, President (ii) G. N. Trikannad and P. R. Bhatia, Vice-Presidents, (iii) Prabhat Kar, M. P., General Secretary, (iv) H. L. Parwana, Tarakeswar Chakraborty, K. J. Joseph, B. K. Porwal, and K. K. Mundol, Assistant Secretaries, for the All India Bank Employees' Association.
- (2) Shri C. L. Dudhia, Advocate, Shri V. B. Gandhi and Shri G. D. Ambekar (for sometime) instructed by Sarvashree (i) C. L. Bharadwaj Vice-President (ii) V. N. Sekhari, General Secretary, (iii) S. K. Biswas,

- Organising Secretary and (iv) O. P. Nigam, Joint Secretary, for the All India Bank Employees' Federation.
- (3) Sarvashree S. S. Kavlekar (For sometime) and H. K. Sowani, Advocates, instructed by Sarvashree (i) C. Coutto, Secretary (ii) Mohan Muzumdar, Council Member, for the All India State Bank of India Staff Federation.
 - (4) Shri Jyoti Ghose, General Secretary, for the State Bank of India Employees' Association (Bengal Circle).
 - (5) Shri Kidar Nath Malhotra, General Secretary, for the State Bank of India Employees Association. (Delhi Circle).
 - (6) Shri S. Lakshmi Narasimham, President and Shri D. S. Nargolkar Advocate, instructed by Sarvashree P. V. Raju, General Secretary, (ii) V. Solomon Raj & V. Sree-Nivasrao, Joint Secretaries, for the State Bank of India Staff Union, Andhra Pradesh, Vijayawada.
 - (7) Shri S. Lakshmi Narasimham, President and Shri D. S. Nargolkar, Advocate, instructed by Sarvashree V. S. Ekambaram and M. Muthukrishnan, Joint Secretaries, for the State Bank of India Staff Union (Madras Circle).
 - (8) Shri C. L. Dudhia, Advocate, instructed by Shri K. A. Pandya, General Secretary, for the Vadodra Rajya Bank Nekar Sangh, Baroda.
 - (9) Shri C. L. Dudhia, Advocate, instructed by Shri N. P. Desai, General Secretary for the Surat Bank Employees Union.
 - (10) Shri G. L. Dudhia, Advocate, instructed by Sarvashree (i) Warpal Singh Sodhi-Chairman (ii) Inderjat Batta, General Secretary, for the State Bank of Patiala (all Cadres) Employees Association.
 - (11) Shri H. K. Sowani, Advocate, instructed by Shri Rajgopal, General Secretary, for the All India Bank of Baroda Employees Federation.
 - (12) Shri H. K. Sowani, Advocate, instructed by Shri C. R. Chandrasekharan, Assistant General Secretary, for the Indian Overseas Bank Employees Union.
 - (13) Shri S. K. Irani, Advocate, for Shri Vazifdar, Electrician of the Chartered Bank.

No appearance on behalf of the following banks:—

- (1) The Ambat Bank Ltd.
- (2) The Jaya Laxmi Bank Ltd.
- (3) The Punjab Co-operative Bank Ltd.,
- (4) The Punjab and Kashmir Bank Ltd.,
- (5) The Safe Bank Ltd. (stopped its Banking business),
- (6) The Thomcos Bank Ltd. (taken over by the Bank of Madurai Ltd.),
- (7) The Ganesh Bank of Kurundwad Ltd.,
- (8) The Vijaya Bank Ltd.,
- (9) The Pangal Nayak Bank Ltd.,
- (10) The Rayalseema Bank Ltd. (Amalgamated with Indian Bank Ltd.),
- (11) The Laxmi Bank Ltd. (in liquidation),
- (12) The Cochin Commercial Bank Ltd.,
- (13) The Palai Central Bank Ltd., (in liquidation).

APPENDIX "C"

BEFORE THE NATIONAL INDUSTRIAL TRIBUNAL (BANK DISPUTES), AT BOMBAY

IN REFERENCE No. 1 of 1960

(1) *Miscellaneous Application No. 2 of 1960,*
dated 24th May 1960

**The All India Bank Employees' Association, Camp : Khandelwal
Bhuwan, Dr. Dadabhai Naoroji Road, Fort, Bombay-1 .. Applicant**

versus

The Banking Companies and Corporations specified in Schedule I to the Order No. S.O. 705, dated the 21st March 1960 of the Government of India in the Ministry of Labour and Employment, New Delhi *Opponents.*

(2) *Miscellaneous Application No. 24 of 1960,*
dated 21st June 1960

The All India Bank Employees' Association, Camp: Khandelwal Bhuwan, Dr. Dadabhai Naoroji Road, Fort, Bombay-1 .. *Applicant*

versus

The Banking Companies and Corporations specified in Schedule to the Order, dated 4th June 1960 of the Government of India, in the Ministry of Labour and Employment, New Delhi .. *Opponents.*

(3) *Miscellaneous Application No. 7 of 1960,*
dated 1st June 1960

The All India Bank Employees' Federation, C/o Shri C. L. Dhudla, Advocate, Vithal Sadan, Vithalbhai Patel Road, Bombay-4 .. *Applicant*

versus

The Banking Companies and Corporations specified in Schedule I to the Order No. S.O. 705, dated the 21st March 1960 of the Government of India in the Ministry of Labour and Employment, New Delhi *Opponents.*

(4) *Miscellaneous Application No. 5 of 1960,*
dated 25th May 1960

The State Bank of India Employees' Association, Bengal Circle, 3, Commercial Building, Calcutta-1 *Applicant*

versus

The State Bank of India *Opponent.*

(5) *Miscellaneous Application No. 14 of 1960,*
dated 14th June 1960

The State Bank of India Staff Union, Andhra Pradesh, Vijayawada .. *Applicant*

versus

The State Bank of India *Opponent.*

(6) *Miscellaneous Application No. 293 of 1960,*
dated 19th September 1960

The All India State Bank of India Staff Federation, State Bank Building, Fort, Bombay-1 *Applicant*

versus

The State Bank of India *Opponent.*

(7) *Miscellaneous Application No. 9 of 1960,*
dated 8th June 1960

The Vadodra Rajya Bank Nekar Sangh, Majoor Mahajan, Raopura, Baroda *Applicant*

versus

(1) The Bank of Baroda Ltd.,	}	<i>Opponents.</i>
(2) The Central Bank of India Ltd.,			
(3) The United Commercial Bank Ltd.,			
(4) M/s. Devkaran Nanjee Banking Co. Ltd.,			
(5) The State Bank of Bikaner,			
(6) The Punjab National Bank Ltd.			

(8) *Miscellaneous Application No. 8 of 1960,*
dated 9th June 1960

The Surat Bank Employees' Union, Gumasta Maha Mandal Office,
Nanavat, Surat Applicant

versus

(1) United Commercial Bank Ltd.,
(2) Punjab National Bank Ltd.,
(3) Central Bank of India Ltd. } Opponents.

(9) *Miscellaneous Application No. 4 of 1960,*
dated 25th May 1960

New Citizen Bank of India Supervisory Staff Union, Bombay .. Applicant

versus

The New Citizen Bank of India Ltd. Opponent.

(10) *Miscellaneous Application No. 28 of 1960,*
dated 18th June 1960

The State Bank of Patiala Employees' Association (All Cadres),
Head Office, 27-B, Model Town, Patiala Applicant

versus

The State Bank of Patiala Opponent.

(11) *Miscellaneous Application No. 301 of 1960,*
dated 12th August 1960

The Pandyan Bank Employees' Union, C/o Madras State Bank
Employees' Federation, 12/13, Angappa Naick Street, Madras-1 .. Applicant

versus

The Pandyan Bank Ltd. Opponent.

IN THE MATTER OF APPLICATIONS REGARDING GRANT OF INTERIM RELIEF

PRESENT:

The Honourable Shri Justice K. T. Desai, Presiding Officer, National
Industrial Tribunal (Bank Disputes), Bombay-1.

APPEARANCES:

For the Applicants:

- (1) Shri D. S. Nargolkar, Advocate, in Miscellaneous Application Nos. 2 of 1960 and 24 of 1960.
- (2) Shri C. L. Dhudia, Advocate, in Miscellaneous Application Nos. 7 of 1960, 9 of 1960, 8 of 1960, and 28 of 1960.
- (3) Shri Jyoti Ghosh in Miscellaneous Application No. 5 of 1960.
- (4) Shri S. Laxmi Narshinham, Advocate, in Miscellaneous Application No. 14 of 1960.
- (5) Shri S. S. Kavlekar, Advocate, in Miscellaneous Application No. 293 of 1960.
- (6) Shri Madan Phadnis, Advocate, in Miscellaneous Application No. 4 of 1960.
- (7) Shri K. K. Mandal in Miscellaneous Application No. 301 of 1960.
- (8) Shri H. K. Sowani for the All India Bank of Baroda Employees' Federation.

For the Opponents:

- (1) Sarvasree R. J. Kolha, N. V. Phadke and K. H. Bhabha, Counsel instructed by Sarvasree N. K. Petigara and J. P. Thacker of Messrs. Mulla and Mulla and Cragie Blunt and Caroe, Solicitors for the Indian Banks' Association. (For 29 member Banks).

- (2) Sarvashree Sachin Chaudhary and S. D. Vimadala, Counsel instructed by Shri R. Setlur of Messrs. Crawford Bayley & Co., Solicitors for the Eight Subsidiary Banks of the State Bank of India who are members of the Indian Banks' Association.
- (3) Shri N. A. Palkhiwalla, Counsel instructed by Shri R. Setlur of Crawford Bayley & Co., Solicitors for the Bombay Exchange Banks' Association. (For 12 member Banks).
- (4) Shri S. P. Sawhnay for the Northern India Bank's Association. (For 6 member Banks).
- (5) Shri A. S. Asayekar, Advocate, for the Travancore Cochin Bankers' Association. (For 5 member Banks).
- (6) Sarvashree Sachin Chaudhary and P. P. Khambatta, Counsel instructed by Shri R. Setlur of Messrs. Crawford Bayley & Co., Solicitors for the State Bank of India.
- (7) Shri D. B. Tilak, Advocate, for the Bharat Lakxmi Bank Ltd., the Bank of Nagpur, the Union Bank of Bijapur and Sholapur and the Chaldean Syrian Bank Ltd. (Four Banks).
- (8) Sarvashree N. K. Petigara and J. P. Thacker of Messrs. Mulla and Mulla and Craigie Blunt and Caroe, Solicitor for the Miraj State Bank Ltd.
- (9) Shri C. R. Iyyunni for the Catholic Syrian Bank Ltd.
- (10) Shri S. Narayaniah, Advocate, for the Salem Bank Ltd.
- (11) Shri Raman Kutti for the Gadodia Bank Ltd.
- (12) Shri R. Balkrishna Kini for the Pandyan Bank Ltd.
- (13) Shri S. E. Engineer, Advocate, for the New Citizen Bank of India Ltd., in Miscellaneous Application No. 4 of 1960.
- (14) No appearance on behalf of the following Banks :—
 - (1) The Ambat Bank Ltd.
 - (2) The Jaya Lakxmi Bank Ltd.
 - (3) The Punjab Co-operative Bank Ltd.
 - (4) The Punjab & Kashmir Bank Ltd.
 - (5) The Safe Bank Ltd.
 - (6) The Thomcos Bank Ltd.
 - (7) The Ganesh Bank of Kurundwad Ltd
 - (8) The Vijaya Bank Ltd.
 - (9) The Nadar Mercantile Bank Ltd.
 - (10) The Pangal Nayak Bank Ltd.
 - (11) The Rayalasecma Bank Ltd.
 - (12) The Cochin Commercial Bank Ltd.
 - (13) The Laxmi Bank Ltd. (in liquidation).
 - (14) The Palai Central Bank Ltd. (in liquidation).

INDUSTRY: BANKING

Bombay, 14th December 1960.

INTERIM AWARD

The workmen represented by the various Associations, Federations and Unions have applied for grant of interim relief pending the hearing and final disposal of the above Reference and the coming into force of the award to be given in the above Reference.

The All India Bank Employees Association has claimed as and by way of interim relief "25 per cent. of wages with a minimum of Rs. 25 per month" for all workmen employed in all the Banks covered by the above Reference. The All India Bank Employees Federation have demanded "25 per cent. of the wages" as and by way of interim relief for all workmen. The State Bank of India Employees Association, Bengal Circle has claimed a sum of Rs. 25 per month by

way of interim relief for the workmen of the Bengal Circle of the State Bank of India with retrospective effect from such date as the Tribunal may deem fit and proper. The State Bank of India Staff Union, Andhra Pradesh, Vijayawada, has claimed the following by way of interim relief:—

- (i) What all has been granted to the Award Staff under the Award should be secured to them as a first measure of interim relief.
- (ii) The standard of living which was sought to be secured to the award staff by the Award but which has been subject to heavy erosions on account of the phenomenal rise in prices should be restored to them as a second measure of interim relief.
- (iii) The State Bank has been responsible to produce and develop the 21 days strike of State Bank Employees in March 1960 culminating in the constitution of this Tribunal. The responsibility of the State Bank therefore may be assessed and the Bank directed to pay the employees their wages for the strike period as a third measure of interim relief.
- (iv) In defiance of the principles of the award the State Bank has been resorting to illegal and unfair labour practices, even involving the Bank in illegal payments and consequent expenditure and loss. Such illegal and unfair practices may be forbidden and *status quo* ordered to be restored as a fourth measure of interim relief."

By the expression "Award" the State Bank of India Staff Union, Andhra Pradesh, Vijayawada, mean "the Award of the Tribunal (referred to for brevity as the Sastry Tribunal) constituted by the Central Government by its notification S.R.O. 35, dated 5th January 1952—as modified by the Labour Appellate Tribunal of India (Special Bench—Banks) and the recommendations of the Bank Award Commission". The All India State Bank of India Staff Federation has claimed by way of interim relief the following:—

- | | |
|---|----------------------------------|
| (1) Abolition of Class IV Area. | } With retrospective effect from |
| (2) Rs. 25 per month to every worker. |  | 1-4-1959. |
| (3) Refund of strike wages which has already been cut. | |
| (4) Making good the loss due to the non-implementation of the Award as enumerated in the annexure attached. | |

The Vadodra Rajya Bank Nokar Sangh, Baroda, has claimed interim relief at "25 per cent. of the basic wages with a minimum of Rs. 25 per month for all the employees with effect from 1st April 1959". The Surat Bank Employees Union, Surat has claimed interim relief at "25 per cent. of the basic wages with a minimum of Rs. 25 per month for all employees with effect from 1st April 1959". The New Citizen Bank of India Supervisory Staff Union, Bombay, has claimed interim relief "at the rate of 25 per cent. of the basic salary with a minimum of Rs. 25 per month". The State Bank of Patiala (All Cadres) Employees Association, Patiala, has claimed by way of "immediate relief" 25 per cent. of wages with a minimum of Rs. 25. The Pandyan Bank Employees Union, has prayed that the application made by the All India Bank Employees Association for interim relief may be treated as an application filed by the Pandyan Bank Employees Union, Madras, on behalf of the workmen of Pandyan Bank Ltd. and has further prayed that the Tribunal should direct the Pandyan Bank Ltd., to implement the scales of pay and other allowances in accordance with the Sastry Award in relation to 'C' Class Banks at least as from 16th April 1959.

The All India Bank of Baroda Employees Federation supported the Application for Interim Relief made by the All India Bank Employees Association.

By mutual consent, the claim against Vysya Bank Ltd. for interim relief was given up.

The All India Bank Employees Association was the first in the field in making the Application for interim relief on 24th May 1960. The All India State Bank of India Staff Federation made its application for interim relief on 19th September 1960. These applications were pressed and heard at a time when the main Reference itself was on Board for hearing and final disposal. These applications were argued at some length before me and the hearing was concluded on 17th November 1960.

These applications have been strenuously contested on behalf of the various Banks appearing before me.

On hearing the parties, I find that the very basis on which the present wage structure rests has been challenged on behalf of the workmen as well as the Banks, though they pull in different directions. Some of the principles taken into account in framing the existing wage structure are disputed. Some banks who are parties to the Reference are not governed by the provisions of the Sastry Award as modified by the decision of the Labour Appellate Tribunal and as further modified by the Industrial Disputes (Banking Companies) Decisions Act, 1955 (XLI of 1955). There is hardly any data which has been accepted or agreed upon by both the workmen and employers which could be relied upon for the purpose of granting interim relief in the present case.

The questions raised before me are of considerable importance and require proper evidence for the due determination thereof. Some of the reliefs claimed by the State Bank of India Staff Union, Andhra Pradesh, Vijayawada, and the All India State Bank of India Staff Federation are in reality by way of permanent relief and not interim relief. Implementation of an existing award cannot be claimed in the manner in which it is sought to be done.

So far as the Banks governed by the Sastry Award as modified by the Decision of the Labour Appellate Tribunal and as further modified by the Industrial Disputes (Banking Companies) Decisions Act, 1955, are concerned, provisions have been made for incremental scales of basic pay and for a sliding scale of dearness allowance linked to the All India Average Consumer Price Index number for the working Class. No doubt, the All India Consumer Price Index has risen from the year 1953 when it was 146.28 (base 1944=100). For the year 1959 the average was 166.98. For the months of April, May and June 1960, the average was 169.28. The rise has not been consistent. There have been occasions when the All India Consumer Price Index has fallen. In October 1959 it was 173.88 whilst in June 1960 it was 169.74. The sliding scale of dearness allowance does not provide for full neutralisation in respect of the rise in the cost of living, but it does take into account the rise or fall in prices of consumer goods and provides for relief in connection therewith.

By a Notification issued by the Government on 13th February 1960 in exercise of the powers conferred by sub-section (5) of section 3 of the Industrial Disputes (Banking Companies) Decisions Act, 1955, it has been provided that if the average All India Cost of Living Index for any quarter after 31st March 1959 should rise or fall by more than five points as compared to 144 (1944=100), the dearness allowance payable for the succeeding quarter should be raised or lowered, in the case of clerical staff by one-fourteenth, and in the case of subordinate staff by one-twentieth, of the dearness allowance admissible at the index level of 144 for each variation of five points. By an Explanation, it has been explained that in that Notification "quarter" meant a period of three months ending on the last day of March, June, September or December.

Some of the Banks have been upgraded since the coming into effect of the provisions of the Sastry Award as modified by the decision of the Labour Appellate Tribunal and as further modified by the Industrial Disputes (Banking Companies) Decisions Act, 1955 (XLI of 1955).

The hearing of the main reference has commenced from 21st November 1960 and is going on from day to day. At the rate at which the matters are at present progressing, it will not be long before the final award in the main Reference is given.

Enough material has not been placed before me to warrant the grant of interim relief. After the matters have been heard fully, if the case warrants, a provision can be made for giving effect to some of the provisions of the Award from a date earlier than the date of the Award.

I am not discussing at present the various matters which have been argued at some length before me, but not fully and without adequate materials, as that may tend to prejudice the main hearing of the Reference before me.

On the materials placed before me, I am unable to give any interim relief.

In the result, no relief by way of interim relief is granted in any of the above applications.

(Sd.) KANTILAL T. DESAI,

Presiding Officer,
National Industrial Tribunal
(Bank Disputes), Bombay.

12th December 1960.

APPENDIX "D"

BEFORE THE NATIONAL INDUSTRIAL TRIBUNAL (BANK DISPUTES),
AT BOMBAY

IN REFERENCE No. 1 OF 1960

(1) *Miscellaneous Application No. 10 of 1960,*
dated 9th June 1960

The All India Bank Employees' Association, Camp : Khandelwal
Bhuwan, Dr. Dadabhai Naoroji Road, Fort, Bombay-1 .. Applicant
versus

The Banking Companies and Corporations specified in Schedule I
to the Order No. S.O. 705, dated the 21st March 1960 and in the
Schedule to the Order, dated the 4th June 1960, of the Govern-
ment of India, in the Ministry of Labour and Employment,
New Delhi .. Opponents.

(2) *Miscellaneous Application No. 25 of 1960,*
dated 23rd June 1960

The All India Bank Employees' Federation, C/o Shri C. L. Dhudia,
Advocate, Vithal Sadan, Vithalbhai Patel Road, Bombay-4 .. Applicant
versus

The Banking Companies and Corporations specified in Schedule I
to the Order No. S.O. 705, dated the 21st March 1960 and in the
Schedule to the Order, dated the 4th June 1960, of the Govern-
ment of India, in the Ministry of Labour and Employment,
New Delhi .. Opponents.

(3) *Miscellaneous Application No. 297/60,*
dated 11th October 1960

The All India State Bank of India Staff Federation .. Applicant
versus

The State Bank of India .. Opponent.

(4) *Miscellaneous Application No. 295 of 1960,*
dated 29th September 1960

The State Bank of India Employees' Association (Bengal and Delhi
Circles) .. Applicant

versus

The State Bank of India .. Opponent.

(5) *Miscellaneous Application No. 22 of 1960,*
dated 23rd June 1960

The State Bank of India Employees' Association (Bengal and Delhi
Circles) .. Applicant

versus

The State Bank of India .. Opponent.

(6) *Miscellaneous Application No. 218 of 1960,*
dated 9th July 1960

The State Bank of India Staff Union, Andhra Pradesh, Vijayawada .. Applicant

versus

The State Bank of India .. Opponent.

(7) *Miscellaneous Application No. 294 of 1960,*
dated 23rd September 1960

The State Bank of India Staff Union, Andhra Pradesh, Vijayawada .. Applicant

versus

The State Bank of India .. Opponent.

(8) *Miscellaneous Application No. 296 of 1960,
dated 11th October 1960*

The State Bank of India Staff Union (Madras Circle) Applicant

versus

The State Bank of India Opponent.

(9) *Miscellaneous Application No. 217 of 1960,
dated 7th July 1960*The Vadodra Rajya Bank Nokar Sangh, Majoor Mahajan. Raopura,
Baroda Applicant*versus*

(1) The Bank of Baroda Ltd.,	}	.. Opponents.
(2) The Central Bank of India Ltd.,		
(3) The United Commercial Bank Ltd.,		
(4) Messrs. Devkaran Nanjee Banking Co. Ltd.,		
(5) The State Bank of Bikaner, Bikaner,		
(6) The Punjab National Bank Ltd. ..		

(10) *Miscellaneous Application No. 298 of 1960,
dated 10th October 1960*

The Indian Overseas Bank Employees' Union, Madras Applicant

versus

The Indian Overseas Bank Ltd. Opponent.

(11) *Miscellaneous Application No. 216 of 1960,
dated 9th July 1960*

The All India Bank of Baroda Employees' Federation Applicant

versus

The Bank of Baroda Ltd. Opponent.

(12) *Miscellaneous Application No. 300 of 1960,
dated 22nd September 1960*The State Bank of Patiala (All Cadres) Employees' Association,
H.O. Patiala Applicant*versus*

The State Bank of Patiala Opponent.

In the matter of Applications for directions for production of certain Documents.

PRESENT:

The Honourable Shri Justice K. T. Desai, Presiding Officer, National
Industrial Tribunal (Bank Disputes), Bombay.

APPEARANCES:

For the Applicants:

- (1) Shri D. S. Nargolkar, Advocate, in Miscellaneous Application No. 10 of 1960.
- (2) Shri C. L. Dhudia, Advocate, in Miscellaneous Applications Nos. 25 of 1960, 217 of 1960 and 300 of 1960.
- (3) Shri Jyoti Ghosh in Miscellaneous Applications Nos. 22 of 1960 and 295 of 1960.
- (4) Shri S. Laxmi Narsinham, Advocate, in Miscellaneous Applications Nos. 294 of 1960 and 218 of 1960.

- (5) Shri S. S. Kavlekar, Advocate, in Miscellaneous Applications Nos. 297 of 1960 and 298 of 1960.
- (6) Shri H. K. Sowani, Advocate, in Miscellaneous Applications Nos. 298 of 1960 and 216 of 1960.

For the Opponents:

- (1) Sarvashree R. J. Kolha, N. V. Phadke and K. H. Bhabha, Counsel instructed by Sarvashree N. K. Petigara and J. P. Thacker of Messrs. Mulla and Mulla and Craigie Blunt and Caroe, Solicitors for the Indian Banks' Association.
- (2) Shri N. A. Palkhiwalla, Counsel instructed by Shri R. Setlur of Crawford Bayley & Co., Solicitors for the Bombay Exchange Banks' Association.
- (3) Sarvashree Sachin Chaudhary and P. P. Khambata, Counsel instructed by Shri R. Setlur of Messrs. Crawford Bayley & Co., Solicitors for the State Bank of India.
- (4) Sarvashree Sachin Chaudhary and S. D. Vimadala, Counsel instructed by Shri R. Setlur of Messrs. Crawford Bayley & Co., Solicitors for the Eight Subsidiary Banks of the State Bank of India.
- (5) Shri S. P. Sawhney for the Northern India Banks' Association.
- (6) Shri A. S. Asayekar, Advocate, for the Travancore Cochin Bankers' Association.
- (7) Shri D. B. Tilak, Advocate, for the Bharat Lakshmi Bank Ltd., the Bank of Nagpur Ltd., the Union Bank of Bijapur and Sholapur Ltd., and Chaldean Syrian Bank Ltd.
- (8) Sarvashree N. K. Petigara and J. P. Thacker of Messrs. Mulla and Mulla and Craigie Blunt and Caroe, Solicitors for the Miraj State Bank Ltd.
- (9) Shri C. R. Iyyunni for the Catholic Syrian Bank Ltd.
- (10) Shri Raman Kutti for the Gadodia Bank Ltd.
- (11) Shri R. Balkrishna Kini for the Pandyan Bank Ltd.
- (12) Shri S. Narayaniah, Advocate, for the Salem Bank Ltd.
- (13) No appearance on behalf of the following Banks :—
 - (1) The Ambat Bank Ltd.
 - (2) The Jaya Lakxmi Bank Ltd.
 - (3) The Punjab Co-operative Bank Ltd.
 - (4) The Punjab & Kashmir Bank Ltd.
 - (5) The Safe Bank Ltd.
 - (6) The Thomcos Bank Ltd.
 - (7) The Ganesh Bank of Kurundwas Ltd.
 - (8) The Vijaya Bank Ltd.
 - (9) The Nadar Mercantile Bank Ltd.
 - (10) The Pangal Nayak Bank Ltd.
 - (11) The Rayalaseema Bank Ltd.
 - (12) The Cochin Commercial Bank Ltd.
 - (13) The Laxmi Bank Ltd. (in liquidation).
 - (14) The Palai Central Bank Ltd. (in liquidation).

INDUSTRY: BANKING

Bombay, 31st October 1960.

ORDER

1. The All India Bank Employees' Association has filed an application, dated 9th June 1960 for the production of certain documents by the banks concerned in the above reference. Amongst the documents so required to be produced are statements showing the secret reserves in any form of each bank from the year 1954 upto 31st December 1959, statements showing "the provisions made for bad and doubtful debts for the years 1954 to 1959, other usual and necessary provisions and their total amounts outstanding in such items in each such Banks for the said number of years", income-tax assessment orders and income-tax refund orders for

the years 1954 to 1959 and statements showing the total balance outstanding for refund as on 31st December 1959 and statements showing the "special provisions made, if any, under any head not shown in the Balance Sheets upto the year 1959 and their total amounts standing at that date." The Indian Banks Association has filed a reply thereto dated 6th July 1960. The Bombay Exchange Banks' Association filed its reply on 6th July 1960. There are similar applications made by the All India Bank Employees' Federation, the State Bank of India Employees' Association, (Bengal and Delhi Circles), the State Bank of India Staff Union, Vijayawada, the All India State Bank of India Staff Federation, the State Bank of India Staff Union, Madras Circle, the All India Bank of Baroda Employees' Federation, the Vadodra Rajya Bank Nokar Sangh, the Indian Overseas Bank Employees Union and the State Bank of Patiala (All Cadres) Employees' Association.

2. After the applications were filed by the All India Bank Employees' Association and the All India Bank Employees' Federation and after the replies thereto were filed by the Indian Banks' Association, and the Bombay Exchange Banks' Association, a Bill was introduced in Parliament on 30th July 1960 for amending the Banking Companies Act, 1949, by adding a new section to that Act, viz., sec. 34A. Thereafter Parliament passed the Banking Companies (Amendment) Act, 1960. The said Act received the assent of the President on 26th August 1960. The newly added section 34A provides as follows :—

- "34A. (1) Notwithstanding anything contained in section 11 of the Industrial Disputes Act, 1947, or any other law for the time being in force, no banking company shall, in any proceeding under the said Act or in any appeal or other proceeding arising therefrom or connected therewith, be compelled by any authority before which such proceeding is pending to produce, or give inspection of, any of its books of account or other document or furnish or disclose any statement or information, when the banking company claims that such document, statement or information is of a confidential nature and that the production or inspection of such document or the furnishing or disclosure of such statement or information would involve disclosure of information relating to—
- (a) any reserves not shown as such in its published balance sheet; or
 - (b) any particulars not shown therein in respect of provisions made for bad and doubtful debts and other usual or necessary provisions.
- (2) If, in any such proceeding in relation to any banking company other than the Reserve Bank of India, any question arises as to whether any amount out of the reserves or provisions referred to in sub-section (1) should be taken into account by the authority before which such proceeding is pending, the authority, may, if it so thinks fit, refer the question to the Reserve Bank and the Reserve Bank shall, after taking into account principles of sound banking and all relevant circumstances concerning the banking company, furnish to the authority a certificate stating that the authority shall not take into account any amount as such reserves and provisions of the banking company or may take them into account only to the extent of the amount specified by it in the certificate, and the certificate of the Reserve Bank on such question shall be final and shall not be called in question in any such proceeding.
- (3) For the purposes of this section "banking company" shall have the meaning assigned to it in the Industrial disputes Act, 1947."

After the enactment of this new section, numerous banks have claimed that some of the documents sought to be produced and the information disclosed thereby were of a confidential nature and that the production or inspection of such documents and the furnishing or disclosure of such information would involve the disclosure of information relating to reserves not shown as such by the banks concerned in their published balance sheets or any particulars not shown therein in respect of provisions made for bad and doubtful debts and other usual or necessary provisions.

3. The applicants have challenged the validity of the new section 34A on the ground that it violates the fundamental rights guaranteed by Article 14 of the Constitution. Reliance has been placed on Article 13(2) of the Constitution which lays down that the State shall not make any law which takes away or abridges the rights conferred by Part III of the Constitution and that any law made in contravention of that clause shall, to the extent of the contravention, be void.

4. A preliminary objection has been taken on behalf of a large number of banks to my deciding the question whether Section 34A is void as aforesaid on the plea that I have no jurisdiction to do so. It is contended that a National Tribunal constituted under the Industrial Disputes Act, 1947, is not competent to decide such a question. It is urged that under the Constitution the High Courts and the Supreme Court have been charged with the function of enforcing the fundamental rights guaranteed under the Constitution and that it is not for this Tribunal to consider whether any legislation enacted by Parliament violates any of the fundamental rights. Reliance in this connection is placed on Article 228 of the Constitution. That Article provides as follows:—

“228. If the High Court is satisfied that a case pending in a Court subordinate to it involves a substantial question of law as to the interpretation of this Constitution the determination of which is necessary for the disposal of the case, it shall withdraw the case and may—

- (a) either dispose of the case itself, or
- (b) determine the said question of law and return the case to the court from which the case has been so withdrawn together with a copy of its judgment on such question, and the said court shall on receipt thereof proceed to dispose of the case in conformity with such judgment.”

Article 228 speaks only of cases pending in a Court subordinate to the High Court. A National Tribunal is not a Court subordinate to the High Court within the meaning of Article 228 and that Article can in no way preclude the Tribunal from determining the question relating to the validity of an enactment, on the ground that such enactment violates fundamental rights. The Constitution makers have drawn a clear and sharp distinction between Courts and Tribunals. In the very preceding Article viz., Article 227, it has been stated that every High Court shall have superintendence over all Courts and Tribunals throughout the territories in relation to which it exercises jurisdiction. If it was the intention of the Constitution makers that Tribunals should not determine substantial questions of law as to the interpretation of the Constitution, they would have stated so and would have provided the machinery for the determination of such questions. No provision anywhere appears in the Constitution whereunder any case involving a substantial question of law as to the interpretation of the Constitution pending before a Tribunal is liable to be withdrawn. There is no provision whereunder such a question in such a case may be determined by any other authority. In this connection, reference may also be made to Article 136 of the Constitution whereunder also a distinction has been made between Courts and Tribunals and it is provided that notwithstanding anything in the Chapter in which that Article appears, the Supreme Court may, in its discretion, grant special leave to appeal from any judgment, decree, determination, sentence or order in any cause or matter passed or made by any Court or Tribunal in the territory of India. In Sub-Clause (2) of Article 136 also it is mentioned that nothing in clause (1) shall apply to any judgment, determination, sentence or order passed or made by any court or tribunal constituted by or under any law relating to the Armed Forces.

5. Article 13(2) of the Constitution lays down that any law made in contravention of that clause shall, to the extent of the contravention, be void. If any enactment is void under the provisions of Article 13, it is void for all purposes. It cannot be treated as valid for the purpose of deciding matters which came up for consideration before a National Tribunal. It is the duty of the Tribunal, if it finds that any provision of any enactment violates any of the fundamental rights guaranteed under Part III of the Constitution to consider it to be void and not to proceed on the footing that it is valid. If the Tribunal did not have the jurisdiction to decide whether any provision of law which violates fundamental rights is void, then the result would be that the Tribunal may have to decide questions relating to the rights and obligations of parties appearing before it on the footing that the provisions of an enactment which are void, are valid. There appears to be no justification for taking such a view.

6. In the case of *Raleigh Investment Company Limited vs. Governor General in Council*, reported in 74 Indian Appeals at page 50, the Privy Council has made observations in connection with the question whether an authority constituted under the Indian Income-tax Act would have jurisdiction to determine the question

whether any provision of that Act is *ultra vires*. At page 63 of the judgment it is stated as follows :—

“In their Lordships' view it is clear that the Income-tax Act, 1922, as it stood at the relevant date, did give the assessee the right effectively to raise in relation to an assessment made on him the question whether or not a provision in the Act was *ultra vires*. Under S. 30, an assessee whose only ground of complaint was that effect had been given in the assessment to a provision which he contended was *ultra vires* might appeal against the assessment. If he were dissatisfied with the decision on appeal—the details relating to the procedure are immaterial—the assessee could ask for a case to be stated on any question of law for the opinion of the High Court and, if his request were refused, he might apply to the High Court for an order requiring a case to be stated and to be referred to the High Court. It cannot be doubted that included in the questions of law which might be raised by a case stated is any question as to the validity of any taxing provision in the Income-tax Act to which effect has been given in the assessment under review. Any decision of the High Court on that question of law can be reviewed on appeal. Effective and appropriate machinery is therefore provided by the Act itself for the review on grounds of law of any assessment.”

If a National Tribunal is to be precluded from deciding any question relating to the interpretation of the Constitution and relating to the constitutionality of any enactment, a provision to that effect is required to be made. The exclusion of jurisdiction must either be explicitly expressed or clearly implied. In the absence of any such provision, I cannot hold that I have no jurisdiction to decide such a question.

7. In support of his contention Shri Bhabha, the learned counsel for some of the banks, relied upon the decision of a Division Bench of the Bombay High Court in the case of the *United Motors (India) Ltd., vs. The State of Bombay*, reported in 55 B.L.R. at p. 246. In that case, the question that had to be considered was whether the provisions of the Bombay Sales Tax Act (XXIV of 1952) were void in law. In that case, a petition had been filed in the Bombay High Court for the issue of a Writ of Mandamus against the State of Bombay and the authorities constituted under the Bombay Sales Tax Act requiring them to desist from enforcing against the petitioners the provisions of the Bombay Sales Tax Act, 1952. The grounds for challenging the Act were that the legislature was not competent to enact this piece of legislation, that this legislation contravened Art. 14 of the Constitution and that it contravened Art. 19(1)(g) of the Constitution. In answer to the application it was contended that there was an efficacious alternative remedy available to the petitioners under the provisions of the Bombay Sales Tax Act itself and that where such a remedy was available, it would not be proper for the Court to issue a Writ. At page 254 Chief Justice Chagla, in the course of his judgment, observe as follows:—

“The petitioners are not challenging any assessment. They have come before us before any assessment could be made, contending that the authorities under the Act have no right to assess them because the Act is *ultra vires* of the Legislature. Therefore the petitioners are challenging the very authorities who are supposed to decide the assessment made against them, and it is difficult to understand how under the machinery provided under the Act it would be open to the various authorities to decide whether the very statute of which they are the creatures is a valid statute or not. Further, as already pointed out, there are two other issues involved in this petition, *viz.* the contravention of fundamental rights under art. 14 and art. 19 which in no view of the case could be decided by the authorities set up under the Sales Tax Act. The jurisdiction of those authorities is limited to decide questions regarding the validity of the assessment, but no jurisdiction has been conferred upon them to adjudicate upon the validity of the Act on the ground that it affects the fundamental rights of the petitioners.”

Strong reliance has been placed by Shri Bhabha upon this passage.

8. Shri Bhabha also relies upon the full bench case of *The Public Prosecutor vs. V. M. Ramalingam Pillai* reported in 1958(2) Madras Law Journal at page 243. It

is a case under the Madras General Sales Tax Act. The observations in that case relied upon by Shri Bhabha appear at page 254 and run as follows :—

“When a person is prosecuted under section 18-A of the General Sales Tax Act it will not be open to him to raise any objection, plea or contention which he could have raised before the authorities set up under the General Sales Tax Act; it will be open to him to raise only those pleas, objections and contentions which those authorities are precluded from entertaining. One example of such a contention would be that the Act or any particular provision of it is *ultra vires*.”

9. Another decision relied upon by Shri Bhabha is the one reported in 1955(2) Supreme Court Reports, p. 603: *The Bengal Immunity Company Limited vs. The State of Bihar and others*. In that case the Bihar Sales Tax Act, 1947, was challenged on the ground that it violated some of the fundamental rights guaranteed under the Constitution. Shri Bhabha relies upon a passage in the dissenting judgment of Shri Justice Venkatarama Ayyar appearing at page 765, which runs as follows :—

“We are not here concerned with a statute whose *vires* is not in question, and which confers jurisdiction on any authority to take proceedings if certain facts exist and the enquiry directed by the authority is as to whether those facts exist. The determination in such a case is incidental to the effective exercise by the authority of its undisputed jurisdiction and if, as a result of that enquiry, it came to an erroneous conclusion, there is no error of jurisdiction, and it might well be contended in that case that the remedy of the party aggrieved was to resort to the machinery provided in the statute itself by way of appeal or revision, and that a writ of prohibition would be misconceived. But here, the contention of the appellant is that the statute itself is void in so far as it authorises the imposition of a tax on dealers who are not residents within the State or do not carry on business there, and that, in consequence, the proceedings taken under section 13(5) of the Act should be restrained on the ground of want of jurisdiction. It is no answer to this contention that the appellant should seek redress through the channels provided in the Act therefor. Indeed, the contention that the Act is *ultra vires* is not one which the Tribunals constituted under the Act, whether original, appellate, or revisional, could entertain, their duty being merely to administer the Act.”

10. Shri Bhabha in all fairness drew my attention to a passage in the judgment of Shri Justice Bhagwati in this very case which appears at pages 672 and 673. In dealing with the question relating to the maintainability of this petition for a Writ under Article 226 the learned Judge observes that the matter can be disposed of in the words of Chief Justice Mahajan in *Himmatlal Harilal Mehta vs. The State of Madhya Pradesh and ors.*, reported in 1954 Supreme Court Reports 1122, at p. 1128. Chief Justice Mahajan in dealing with an argument based on the principle enunciated by the Privy Council in the case of the *Raleigh Investment Company vs. The Governor General in Council*, referred to by me earlier observes as follows :—

“The contention that because remedy under the impugned Act was available to the appellant it was disentitled to relief under article 226 stands negatived by the decision of this Court in *The State of Bombay vs. The United Motors (India) Ltd.*, (1953 S.C.R. 1069) above referred to. There it was held that the principle that a court will not issue a prerogative writ when an adequate alternative remedy was available could not apply where a party came to the court within an allegation that his fundamental right had been infringed and sought relief under article 226. Moreover, the remedy provided by the Act is of an onerous and burdensome character. Before the appellant can avail of it he has to deposit the whole amount of the tax. Such a provision can hardly be described as an adequate alternative remedy.”

11. This reasoning proceeds on the basis that the authorities constituted under the Act would have a right to decide the question relating to the constitutionality of the impugned provision of the Act. In all the aforesaid cases what the Courts had to consider was whether there was any bar to the issue of a Writ by reason of the existence of an effective alternative remedy provided by the Act whose validity itself was challenged.

12. Apart from any other consideration, the observations on which Shri Bhabha relies, in my view, are not applicable at all to the facts of the present case. What

the learned judges have said is that an authority constituted under an enactment is not competent to decide the validity of the very enactment under which that authority is constituted. In the present case, the validity of the appointment of the National Tribunal is not disputed. No provisions of the Industrial Disputes Act, 1947, under which this Tribunal is constituted, are in any way challenged. What is challenged is the right of this Tribunal constituted under the Industrial Disputes Act, 1947, to decide whether a provision of the Banking Companies Act, 1949, violates any fundamental right guaranteed under the Constitution. Under the Industrial Disputes Act, 1947, authority has been conferred upon me to determine questions relating to production of documents. The determination of the question whether the provisions of section 34A of the Banking Companies Act, 1949, are valid or not, is incidental to the effective exercise by me of my undisputed jurisdiction to decide the question whether I should order discovery of particular documents in this case or not. In my view, there is no merit in the contention that I have no jurisdiction to decide whether the provisions contained in section 34A are void on the ground that they offend the fundamental rights guaranteed under Article 14 of the Constitution.

13. The next question that has been urged before me is that before I can proceed to decide the question, notice must be given to the Attorney General as required by Order 27A, r.1 of the Code of Civil Procedure. That rule provides as follows :—

“In any suit in which it appears to the Court that any such question as is referred to in clause 1 of Article 132 read with Article 147 of the Constitution is involved, the Court shall not proceed to determine that question until after the notice has been given to the Attorney General for India, if the question of law concerns the Central Government and to the Advocate General of the State if the question of law concerns a State Government.”

Clause (1) of Article 132 refers to a substantial question of law as to the interpretation of the Constitution. These provisions do not govern proceedings before this Tribunal. The Order relied upon has no application to the present case and this contention must also fail.

14. I shall now proceed to deal with the substantial question that has been raised before me *viz.* whether the provisions of section 34A of the Banking Companies Act, 1949, are void, on the ground that they violate the fundamental rights guaranteed under Article 14 of the Constitution. Article 14 of the Constitution provides that the State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India. This Article has come up for consideration before the Supreme Court, on numerous occasions and the law on the subject has been well-settled. I will only refer to one recent case on the subject reported in 1959 Supreme Court Reports p. 279: *Shri Ram Krishna Dalmia vs. Shri Justice S. R. Tendolkar and others*. Chief Justice Das in that case observes at pages 296 and 297 as follows :—

“The principal ground urged in support of the contention as to the invalidity of the Act and/or the notification is founded on Art. 14 of the Constitution. In *Budhan Chaudhary vs. The State of Bihar* [1955 (1) S.C.R. 1045] a Constitution Bench of seven Judges of this Court at pages 1048-49 explained the true meaning and scope of Art. 14 as follows :—

“The provisions of Article 14 of the Constitution have come up for discussion before this Court in a number of cases, namely, *Chiranjit Lal Chaudhri Vs. The Union of India* (1950 S.C.R. p. 869), *The State of Bombay vs. F. N. Balsara* (1951 S.C.R. 682), *The State of West Bengal vs. Anwar Ali Sarkar* (1952 S.C.R. 284), *Kathi Raning Rawat vs. The State of Saurashtra* (1952 S.C.R. 435), *Lachmandas Kewalram Ahuja vs. The State of Bombay* (1952 S.C.R. 710), *Qasim Razvi vs. The State of Hyderabad* (1953 S.C.R. 581) and *Habeeb Mohamad vs. The State of Hyderabad* (1953 S.C.R. 661). It is, therefore, not necessary to enter upon any lengthy discussion as to the meaning, scope and effect of the article in question. It is now well established that while article 14 forbids class legislation, it does not forbid reasonable classification for the purposes of legislation. In order, however, to pass the test of permissible classification two conditions must be fulfilled, namely, (i) that the classification must be founded on an intelligible differentia which distinguishes persons or things that are grouped together from others left out of the group and, (ii) that that differentia must have a rational relation to the object

sought to be achieved by the statute in question. The classification may be founded on different bases, namely, geographical, or according to objects or occupations or the like. What is necessary is that there must be a nexus between the basis of classification and the object of the Act under consideration. It is also well established by the decisions of this Court that article 14 condemns discrimination not only by a substantive law but also by a law of procedure."

The learned Chief Justice thereafter proceeds to state that the decisions of the Supreme Court further establish *inter alia* that it must be presumed that the legislature understands and correctly appreciates the need of its own people, that its laws are directed to problems made manifest by experience, that its discriminations are based on adequate grounds and that the legislature is free to recognise degrees of harm and may confine its restrictions to those cases where the need is deemed to be the clearest. He further observes that in determining the question of the validity or otherwise of such a statute the Court will not strike down the law out of hand only because no classification appears on its face or because a discretion is given to the Government to make the selection or classification but will go on to examine and ascertain if the statute has laid down any principle or policy for the guidance of the exercise of discretion by the Government in the matter of the selection or classification. After such scrutiny the Court will strike down the statute if it does not lay down any principle or policy for guiding the exercise of discretion by the Government in the matter of selection or classification, on the ground that the statute provides for the delegation of arbitrary and uncontrolled power to the Government so as to enable it to discriminate between persons or things similarly situate and that, therefore, the discrimination is inherent in the statute itself. In such a case the court will strike down both the law as well as the executive action taken under such law. He further observes that a statute may not make a classification of the persons or things for the purpose of applying its provisions made for bad and doubtful debts and other usual or necessary provisions to classify the persons or things to whom its provisions are to apply, but may at the same time lay down a policy or principle for the guidance of the exercise of discretion by the Government in the matter of such selection or classification, then the court will uphold the law as constitutional.

15. I shall now proceed to examine the provisions of section 34A of the Act with a view to see if the well-recognised tests as laid down by the Supreme Court have been satisfied.

16. Section 34A (1) deals with production of documents, giving inspection of documents, the furnishing of statements and the disclosure of information by a banking company. For this purpose the term banking company, by reason of the provisions of sub-section (3) of section 34A means a company which transacts the business of banking in India having branches or other establishments in more than one State and includes the Reserve Bank of India, the State Bank of India and any subsidiary bank as defined in the State Bank of India (Subsidiary Banks Act, 1959). It is confined to proceedings under the Industrial Disputes Act, 1947, or in any Appeal or other proceeding arising therefrom or connected therewith. It imposes a limitation upon the powers of the authority before which such proceeding is pending. It comes into operation when the banking company claims (1) that such document, statement or information is of a confidential nature and (2) that the production or inspection of such document, or the furnishing or disclosure of such statement or information would involve the disclosure of information relating to (a) any reserves not shown as such in its published balance sheet or (b) "any particulars not shown therein (i.e. in the published balance sheet) in respect of provisions made for bad and doubtful debts and other usual or necessary provisions". The words quoted above in respect of item (b) are referable to similar words appearing in Form B in the Third Schedule of the Banking Companies Act, 1949.

17. By section 34A(2) a provision is made for a certificate from the Reserve Bank as regards the amount that may be taken into account by the authority concerned out of the reserves or provisions referred to in sub-section (1). The certificate of the Reserve Bank on such question is made final. Such certificate is to be given when such a question arises in relation to a banking company other than the Reserve Bank. There is no universally recognized principle that a party to a proceeding pending in a Court or before a Tribunal or other authority has the right of obtaining discovery and inspection of documents in the possession of any other party thereto or is entitled to the disclosure of any information in the possession of

the other party. The right of discovery and inspection and the submission of interrogatories is confined mainly to Civil Courts. No such right exists in Criminal Courts. No such right exists in connection with proceedings before various authorities constituted under various enactments. Section 11 of the Industrial Disputes Act by sub-section (3) provides that every Board, Court, Labour Court, Tribunal and National Tribunal shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 when trying a suit, in respect of compelling the production of documents and material objects. If such a provision was absent in the Industrial Disputes Act, 1947, it could not have been said that the Act was invalid to any extent by reason of such absence. It was open to the legislature to provide that the authorities under the Industrial Disputes Act, 1947, should have the powers referred to in that section. It was equally open to that very legislature to put restrictions on such powers, if it felt that it was expedient to do so. Even where a right is conferred upon parties in proceedings in Civil Courts to compel production of documents, that right is not an absolute right. That right is limited by the privilege conferred by the legislature against such discovery and production in respect of certain documents. It is open to the legislature to extend that privilege to other documents. The legislature by enacting section 34A has sought *inter alia* to put a restriction on the right conferred by section 11 of the Industrial Disputes Act, 1947.

18. It is urged on behalf of the applicants that by this section classifications have been made without the same being founded on any intelligible differentia which would distinguish persons or things that are grouped together from others left out of the group. It is urged that a favourable treatment is given to banking companies as compared to other companies and that even amongst banking companies, the Reserve Bank is treated differently from other banks. It is further urged that the authorities constituted under the Industrial Disputes Act are discriminated against as compared to other authorities under other enactments and Courts. It is further urged that a discrimination is made between banking companies making a claim as therein mentioned and banking companies not making such a claim, and that the foundation for such discrimination rests on no objective test, but upon a mere claim being made without there being any provision whatsoever for verifying or adjudging whether the claim as made is well-founded or otherwise.

19. As regards the contention about difference in treatment between banking companies and other companies the classification is founded on an intelligible differentia having a rational relation to the object sought to be achieved. Banking Companies perform functions which are distinct and different from those performed by other companies. The legislature has thought it fit to enact a special Banking Companies Act in order to legislate specially and specifically for banking companies. The banking companies stand in a group by themselves and it cannot be said that if a privilege is conferred upon banking companies, there is no rational basis for the classification so made. Under this section privilege can be claimed only in respect of documents, statements or information of a confidential nature when the production or inspection of such documents or the furnishing or disclosure of such statements or information would involve disclosure of information relating to any reserves not shown as such in a banking company's published balance sheet, or any particulars not shown therein in respect of provisions made for bad and doubtful debts and other usual or necessary provisions. The question of not showing such reserves or particulars generally arises in connection only with banking companies having regard to the provisions contained in section 29 of the Banking Companies Act, 1949, and form B given in the third Schedule thereto. In my view, there is no substance in this contention.

20. As regards the distinction made between the Reserve Bank and other banking companies in section 34A(2), there is good reason for doing so. The Reserve Bank itself is constituted the authority to issue the certificates referred to in that sub-section and the legislature could well provide that it is not to issue a certificate about itself. As regards the contention that the authorities constituted under the Industrial Disputes Act, 1947, are discriminated against, it is clear from the provisions of that section that the same are applicable to all authorities before which the proceedings therein referred to may be pending. The proceedings therein referred to are: (i) any proceeding under the Industrial Disputes Act, 1947, (ii) any appeal arising therefrom or connected therewith, and (iii) any other proceeding arising therefrom or connected therewith. There is no provision for any appeal under the Industrial Disputes Act, 1947. An appeal from the award of any Tribunal under the Act lies under Article 136 of the Constitution to the Supreme Court. The provisions of section 34A would be applicable to the Supreme Court even though it is not an authority constituted under the Industrial Disputes Act. Even

If the provisions were confined to authorities constituted under the Industrial Disputes Act, 1947, it is not possible to say that there does not exist any intelligent differentia having a natural relation to the object sought to be achieved. It is no doubt true that a banking company cannot claim such a privilege in proceedings before any Court of law. It cannot claim any such privilege before the authorities constituted under the Indian Income-tax Act or other enactments. The case however is one which is covered by the following observations from the judgment of Chief Justice Das in the aforesaid case:—

“..... the legislature is free to recognise degrees of harm and may confine its restrictions to those cases where the need is deemed to be the clearest.”

The legislature may well have thought that in proceedings before the authorities constituted under the Industrial Disputes Act, 1947, where a banking company having branches or other establishments in more than one State is a party, the number of persons appearing may be very large and found it necessary to prevent the disclosure of certain documents, statements and information of a confidential nature in the public interest. The legislature may well have considered the degree of harm caused by such disclosure and found the need for such restriction to be the clearest and the greatest.

21. As regards the next argument based on discrimination arising by virtue of a claim being made or not made by a Bank, the legislature had to consider whether to impose an absolute bar on a qualified bar in connection with such disclosure. What was intended by the legislature was to confer a privilege and not to impose a disability. If it had provided that such documents, statements or information should under no circumstances be disclosed, it might have resulted in hardship in several cases. The legislature has thought it fit to give liberty to a banking company to make such a disclosure if the company so desired. It cannot be said that merely because an option is given to a banking company to make a claim or not to make a claim that a difference in classification results, which is based on no rational foundation. In my view, it is not possible to attack the provisions of the section on the ground that the privilege conferred by the section depends upon the making or the non-making of a claim. There are sound and valid reasons for this difference.

22. It is next urged that the granting of the privilege rests in the making of a bare or naked claim. The claim that is required to be made must be of a two-fold nature: (i) that the document, statement or information is of a confidential nature, and (ii) that the production or inspection of such document or the furnishing or disclosure of such statement or information would involve disclosure of information relating to (a) any reserves not shown as such in its published balance-sheet; or (b) any particulars not shown therein in respect of provisions made for bad and doubtful debts and other usual or necessary provisions. It is true no doubt that no machinery is provided for the purpose of verifying the correctness of such a claim. No tribunal is empowered to consider whether the claim as made is well founded or not. The claim being a claim in respect of matters not shown in the published balance-sheet, the legislature may well have considered that the checks provided in the Banking Companies Act, 1949, in connection therewith may be a sufficient safeguard and may have considered that the disclosure of such documents, statements or information for the objective determination by anybody or tribunal may do more harm than good. As observed by the Supreme Court, it must be presumed that the legislature understands and correctly appreciates the needs of its own people and that its laws are directed to problems made manifest by experience and that its discriminations are based on adequate grounds. In my view, the provisions of Article 14 cannot be considered to be violated by reason of the fact that the grant of the privilege under that section rests on a bare claim being made by a banking company.

23. It is next contended that the provisions contained in the section are extremely vague. Item (b) in that section refers to particulars not shown in the published balance sheet in respect of “other usual or necessary provisions”. It is urged that the word “usual” conveys no definite meaning. It may cover what may not be usual to the banking industry as such, but may be usual to a particular bank. It is urged that the words “necessary provisions” are equally words of uncertain import, inasmuch as the question as to what may be considered necessary may depend upon the subjective view of the person preparing the balance sheet. One thing to be borne in mind in this connection is that the claim that is required to be made must be a claim in respect of a document, statement or information of a confidential nature. If the particulars which are not shown in the balance-sheet are not of a confidential nature, then the privilege is not liable to be claimed in connection therewith. The language used by the legislature is intended to cover only those

matters which a banking company is entitled to exclude from its published balance sheet having regard to the provisions contained in section 29 of the Banking Companies Act, 1949, and the forms prescribed thereunder. The words "provision made during the year for bad and doubtful debts and other usual or necessary provisions" appear in Form B in the Third Schedule to that Act. Similar words in section 34A bear the same meaning as the words used in Form B. These words have a definite meaning in the context of the Banking Companies Act and are not so nebulous as to render the provisions of the enactment invalid.

24. Under sub-section (2) of section 34A the Reserve Bank has been constituted the authority for the purpose of issuing the certificates therein mentioned. It is urged that there is no guiding principle laid down to govern the action of the Reserve Bank in issuing such certificates. The words used in the section are "the Reserve Bank shall, after taking into account principles of sound banking and all relevant circumstances concerning the banking company, furnish to the authority a certificate". It is urged that the words "principles of sound banking" are words of uncertain import and what one person may consider to be a principle of sound banking, another person may not. It is argued that the words "principles of sound banking" do not convey a definite meaning. Banking industry in this country has been established since a long time. The principles of sound banking are not in a nebulous state. They are words well understood in the banking world and cannot be regarded as being so nebulous as to convey no meaning and give no guidance.

25. It is then urged that the Reserve Bank is interested in the disputes referred to me in this Reference, that it has a bias in favour of the banks and that it is not a proper entity to be constituted the authority under the Act for the issue of such certificates. Reliance has been placed in this connection on the observations of the House of Lords in the case of *Dimes vs. Proprietors of Grand Junction Canal* reported in 3 House of Lords Cases, p. 759 at p. 793 and on the observations in the case of *Fanagan vs. Kernan* appearing in 8 Law Reports Ireland p. 44 at page 48, where it has been laid down that no man should be made a judge in his own cause. Reliance is also placed upon the decision in the case *The King vs. Sussex Justices*, reported in 1924(1) K.B. p. 256 and the case reported in 1926 Appeal Cases p. 588 *Frome United Breweries Company Limited and another vs. Keepers of the Peace and Justices for County Borough of Bath*. In the last case in the speech of Viscount Cave at page 590 it has been observed as follows:—

"My Lords, if there is one principle which forms an integral part of the English Law, it is that every member of a body engaged in a judicial proceeding must be able to act judicially; and it has been held over and over again that, if a member of such a body is subject to a bias (whether financial or other) in favour of or against either party to the dispute or is in such a position that a bias must be assumed, he ought not to take part in the decision or even to sit upon the tribunal. This rule has been asserted, not only in the case of Courts of Justice and other judicial tribunals but in the case of authorities which, though in no sense to be called Courts, have to act as judges of the rights of others".

26. Placing reliance on these authorities, it has been strongly urged before me that the Reserve Bank of India is virtually constituted a judge in its own cause, inasmuch as the Reserve Bank may be called upon to issue a certificate in connection with the reserves or provisions referred to in sub-section (1) of section 34A in respect of the State Bank of India. Nearly 92 per cent. of the shares of the State Bank of India are held by the Reserve Bank of India. Various provisions from the State Bank of India Act, 1955, have been referred to in order to show that the Reserve Bank has an interest in the State Bank of India. The State Bank of India is the agent of the Reserve Bank of India at various places where the Reserve Bank of India has not got any branches. It is urged that the Reserve Bank of India has a strong bias in favour of the State Bank of India. It is urged that the Reserve Bank of India is also interested in the subsidiaries of the State Bank of India. It is further urged that the Reserve Bank of India is interested in the result of the present Reference as the decision given in respect of some of the questions in this reference may have an influence on the decision of the questions which are to come up for consideration in Reference No. 2 of 1960 in connection with the dispute between the Reserve Bank of India and its workmen. In answer to this argument, Shri Bhabha, the learned counsel for some of the Banks contents that the principle concerning bias is not one which is applicable to all tribunals and authorities. He referred to a decision of the House of Lords in *Franklin and others vs. Minister*

of Town and Country Planning, reported in 1948 Appeal Cases p. 87. In that case Lord Thankerton in the course of his speech at page 103 observes as follows:—

"My Lords, I could wish that the use of the word "bias" should be confined to its proper sphere. Its proper significance, in my opinion, is to denote a departure from the standard of even-handed justice which the law requires from those who occupy judicial office, or those who are commonly regarded as holding a quasi-judicial office, such as an arbitrator. The reason for this clearly is that, having to adjudicate as between two or more parties, he must come to his adjudication with an independent mind, without any inclination or bias towards one side or other in the dispute. As Lord Cranworth L. C. says in *Ranger v. Western Ry. Co.* (5 M.L.C. 72, 89) 'A judge ought to be and is supposed to be, indifferent between the parties. He has, or is supposed to have, no bias inducing him to lean to the one side rather than to the other. In ordinary cases it is a just ground of exception to a judge that he is not indifferent, and the fact that he is himself a party, or interested as a party, affords the strongest proof that he cannot be indifferent'. To this may be added the statement by Lord Hewart C. J. in *Rex vs. Sussex Justices. Ex-parte McCarthy* [1924(1) K.B. 256, 258]: 'It is said, and, no doubt, truly, that when that gentleman (the deputy clerk) retired in the unusual way with the justices, taking with him the notes of the evidence in case the justices might desire to consult him, the justices came to a conclusion without consulting him, and that he scrupulously abstained from referring to the case in any way. But while that is so, a long line of cases shows that it is not merely of some importance but is of fundamental importance that justice should not only be done, but should manifestly and undoubtedly be seen to be done. The question therefore is not whether in this case the deputy clerk made any observation or offered any criticism which he might not properly have made or offered; the question is whether he was so related to the case in its civil aspect as to be unfit to act as clerk to the justices in the criminal matter. The answer to that question depends not upon what actually was done but upon what might appear to be done.' This was followed in *Rex vs. Essex Justices. Ex-parte Perkins* [1927(2) K.B. 475]. But, in the present case, the respondent having no judicial duty, the only question is what the respondent actually did, that is, whether in fact he did genuinely consider the report and the objections."

27. The matter is succinctly stated in Halsbury's Laws of England, Third Edition, Vol. 11 at page 67, paragraph 123, under the heading "bias by interest" as follows:—

"It is an elementary principle, that (in the absence of statutory authority or consensual agreement) no man can be a judge in his own cause", and a reference has been made to *Dimes vs. Proprietors of Grand Junction Canal*, 3 House of Lords Cases, p. 759 referred to by me earlier.

28. In the present case, the Reserve Bank has not to exercise any judicial or quasi-judicial function in issuing a certificate. Apart from that, the legislature has thought it fit to confer authority on the Reserve Bank of India to issue the certificates in question. The authority conferred upon the Reserve Bank is a statutory authority and being a statutory authority it is not liable to be challenged on the ground of bias. In my view, the argument based on the footing of bias is not sustainable in law. In my view, the classifications that have been made by the legislature in enacting section 34A are founded on an intelligible differentia distinguishing the banking companies referred to therein from other companies and distinguishing the authorities referred to therein from other authorities. The differentia has a rational relation to the object sought to be achieved by the statute viz., the non-disclosure in the public interest and in the interest of the banking system of the country of the particulars referred to in section 34A. There is a clear nexus between the basis of classification and the object of the Act under consideration. The attack upon the constitutionality of Section 34A based on the ground that it is violative of the fundamental rights guaranteed under Article 14 of the Constitution must, therefore, fail.

29. The next argument that is urged on behalf of the applicants is that assuming that section 34A of the Act is valid, its provisions are not applicable to the present proceedings for production of documents, which are pending before me. It is urged that this piece of legislation must be considered to be prospective in its operation. It is urged that Reference No. 1 of 1960, which has been made by the Central Government on 21st March 1960, was a reference made prior to the coming into

force of the Banking Companies (Amendment) Act, 1960, and that the provisions of the amending Act cannot be made applicable to proceedings which had already commenced prior to the coming into force of the amendment. Reliance in this connection is placed upon certain passages from Maxwell on the Interpretation of Statutes, 10th Edition, at p. 221. It has been stated there as follows:—

"In general, when the law is altered during the pendency of an action, the rights of the parties are decided according to the law as it existed when the action was begun, unless the new statute shows a clear intention to vary such rights."

At page 225, under the heading "Retrospective Operation as regards Procedure" it is stated:

"In both of the above cases the construction, though fatal to the enforcement of a vested right, by shortening the time for enforcing it, did not in terms take away any such right, and in both it seems to fall within the general principle that the presumption against a retrospective construction has no application to enactments which affect only the procedure and practice of the courts."

It is further stated that no person has a vested right in any course of procedure. At page 228 it has been observed that the general principle, however, seems to be that alternations in procedure are retrospective, unless there be some good reason against it. At pages 227 and 228 it has been stated as follows:—

"But a new procedure would be presumably inapplicable where its application would prejudice rights established under the old or would involve a breach of faith between the parties."

30. The leading case on the subject is the case of *The Colonial Sugar Refining Company Limited vs. Irving*, reported in 1905 Appeal Cases p. 369. In that case it was held that although the right of appeal from the Supreme Court of Queensland to His Majesty in Council had been taken away by the Australian Commonwealth Judiciary Act, 1903, yet the Act was not retrospective and a right of appeal to the King in Council in a suit pending when the Act was passed and decided by the Supreme Court afterwards was not taken away. Lord Macnaghten in delivering the judgment of the Privy Council observes at page 372 as follows:—

"As regards the general principles applicable to the case, there was no controversy. On the one hand, it was not disputed that if the matter in question be a matter of procedure only, the petition is well founded. On the other hand, if it be more than a matter of procedure, if it touches a right in existence at the passing of the Act, it was conceded that, in accordance with a long line of authorities extending from the time of Lord Coke to the present day, the appellants would be entitled to succeed."

He held in that case that there was an interference with existing rights.

31. Reference was also made to the decision of the Privy Council in *Delhi Cloth and General Mills Company, Limited vs. Income Tax Commissioner, Delhi and another*, reported in 54 Indian Appeals p. 421. Lord Blanesburgh in delivering the judgment of the Privy Council observes at page 425 as under:—

"The principle which their Lordships must apply in dealing with this matter has been authoritatively enunciating by the Board in the *Colonial Sugar Refining Co. vs. Irving* (1905 A.C. 369) where it is in effect laid down that, while provisions of a statute dealing merely with matters of procedure may properly, unless that construction be textually inadmissible, have retrospective effect attributed to them, provisions which touch a right in existence at the passing of the statute are not to be applied retrospectively in the absence of express enactment or necessary intendment. Their Lordships can have no doubt that provisions which, if applied retrospectively, would deprive of their existing finality orders which, when the statute came into force, were final, are provisions which touch existing rights."

In the present case, no orders for production had been passed by me prior to the coming into force of the Banking Companies (Amendment) Act, 1960. No question of finality of orders, therefore, arises.

32. Another decision to which my attention was drawn is the one reported in 1957 Supreme Court Repts. p. 488 in the case of *Garikapatti Veeraya vs. N. Subbiah Chaudhary*. In the course of his judgment Chief Justice Das refers to the aforesaid case of *Colonial Sugar Refining Company Ltd., vs. Irving*, and quotes

the aforesaid observations of Lord Blanesburgh as laying down the law on the subject.

33. The question that I have to consider is whether the Applicants had any existing vested rights when the amending Act was passed. The law is now well-settled that no person has a vested right in a particular procedure. The right which is sought to be claimed is a right to claim production of documents having regard to the provisions contained in section 11 of the Industrial Disputes Act. It is urged that the said right to obtain production has been interfered with during the pendency of the present proceedings. That right has now been limited so as to exclude discovery of documents, statements or information of the kind mentioned in section 34A on a claim being made by a banking company as provided in that section. The right to claim discovery, inspection and disclosure of information may be a valuable right but it is a right appertaining to the realm of procedure and not a vested right. In the absence of any other indication, a legislative provision in that connection has to be construed as being applicable to proceedings pending at the date when such provision came into force. It has been strongly urged by Shri Bhabha, that it is not necessary in this case to resort to any of the aforesaid canons of construction for the purpose of considering whether the new section is operative in connection with proceedings which had already been instituted prior to the coming into force thereof. In his submission, the language of section 34A is clear and covers proceedings which were pending at the date when the Banking Companies (Amendment) Act, 1960, came into force. In his submission, the words "before which such proceeding is pending" are already intended to cover all pending proceedings, whether instituted before or after the coming into force of the Banking Companies (Amendment) Act, 1960. Shri Kavlekar has, on the other hand, equally strongly urged that the words "before which such proceeding is pending" are not really determinative of the question whether the section is applicable to proceedings which had been instituted before the commencement of the Banking Companies (Amendment) Act, 1960 or to proceedings instituted after such commencement. He says that whenever a claim is made under the section, a proceeding must be pending. The very making of the claim in a proceeding postulates the pendency of a proceeding. He contends that the section cannot be given a retrospective effect so as to deprive persons of their existing rights. In my view, the language used by the legislature is such that having regard to its plain meaning it applies to proceedings which have been instituted before the coming into force of the Banking Companies (Amendment) Act, 1960 and to proceedings which may be instituted after the coming into force thereof. There is nothing to indicate that the legislature intended to exclude proceedings which had been instituted before the coming into force of the amending Act. The amendment was made in the public interest and in the interest of the banking system of the country. If a reference is made to the statement of objects and reasons in the case of ambiguity, the intention of the legislature as disclosed therein seems to me to be clear. It was in order to serve the public interest and the interest of the banking system of the country that the disclosure was sought to be prevented. The object would not be fully and effectively served by restricting the operation of the Act to proceedings commenced after the coming into force of the Act.

34. A doubt has arisen as to whether it is open to any tribunal in interpreting the provisions of an Act to refer to the statement of objects and reasons. Shri Bhabha referred to the decision of the Supreme Court in this connection reported in 1959 S.C.R. p. 12: *Express Newspapers (Private) Limited & Another Vs. The Union of India and others*: Shri Justice Bhagwati in the course of his judgment observes at page 140 as follows:—

"We do not propose to enter into any elaborate discussion on the question whether it would be competent to us in arriving at a proper construction of the expression "fixing rates of wages" to look into the Statement of Objects and Reasons attached to the Bill No. 13 of 1955 as introduced in the Rajya Sabha or the circumstances under which the word "minimum" came to be deleted from the provisions of the Bill relating to rates of wages and the Wage Board and the fact of such deletion when the Act came to be passed in its present form. There is a consensus of opinion that these are not aids to the construction of the terms of the Statute which have of course to be given their plain and grammatical meaning [See: Ashvini Kumar Ghosh and Anr. V. Arabinda Bose and Anr. (1953 S.C.R. 1)] and Provat Kumar Kar and others vs. William Trevelyan Curtiez Parkar (A.I.R. 1960 Cal. 116). It is only when the terms of the statute are ambiguous or vague that resort may be had to them for the purpose of arriving at the true intention of the legislature."

In my view, both on the ground of the language used by the legislature and on the ground of the application of the well known canons of construction the provisions of section 34A are applicable to the applications which have been made before me for production of documents in the present Reference.

35. Shri Nargolkar, the learned counsel for the All India Bank Employees' Association, has strongly relied upon the decision reported in 39 Times Law Reports p. 128: in the case of *Beadling and others vs. Goll*. In that case it was held that the provision in section 1 of the Gaming Act, 1922, that no action for the recovery of money under section 2 of the Gaming Act 1835, shall be entertained in any Court was not retrospective in regard to action which had been commenced before the passing of the Act and in which judgment had not been given when the Act came into force. This decision turned upon the language used by the legislature. He also relied upon the decision in the case of *Bireswar Moral and another vs. Indu Bhushan Kindu and others*, reported in A.I.R. 1943, Cal. 573 at p. 574. In that case, a Division Bench of the Calcutta High Court held that when the legislature altered the rights of parties by taking away or conferring any right of action, its enactments, unless in express terms they apply to pending actions, do not affect them. They held that there was an exception to this rule, namely, where enactments merely affected procedure, and did not extend to rights of action. They further held that if a statute dealt merely with the procedure in an action, and did not affect the rights of the parties, "It will be held to apply *prima facie* to all actions, pending as well as future". "Whether a person has a right to recover property is a question of substantive law. But in what Court he must institute proceedings is a question of procedural law."

36. Shri Nargolkar relied upon the decision reported in 1909(1) K.B. p. 310: *Smithies vs. National Association of Operative Plasterers and others* and urged that vested rights had accrued in the present case and as such rights had accrued, those rights cannot be taken away unless the legislature indicated that the amending act was to be retrospective in operation. Vaughan Williams L. J. in the aforesaid case observed at page 319 as follows:—

"We are all agreed on this point. It is a proposition founded in common sense that, where vested rights have already accrued, and legislation is passed which uses words expressive of futurity, such as "shall" or "shall not" which *prima facie* would appear to be meant to be applicable to future cases, it is not to be construed retrospectively so as to affect those vested rights, unless terms are used which clearly compel the Court to give it that construction. This is only to impute common sense to the Legislature; any reasonable person would say that clear terms ought to be used, if it is intended to divest a vested right. It is stated in Maxwell on the Interpretation of Statutes, 3rd ed. p. 333, that, where a statute is in its nature a declaratory Act, the argument that it must not be construed so as to take away previous rights is not applicable."

In my view, no vested right, in the sense referred to by Lord Vaughan Williams, had accrued to the applicants when the amending Act came into force.

37. There is one more argument which was urged before me. It was urged that the Banking Companies (Amendment) Act, 1960, is really a declaratory Act, and reliance was sought to be placed upon what is stated in the statement of objects and reasons. It is there stated that the new section was proposed to be inserted "to make it clear that information, which according to the law is not required to be published in the balance sheet or profit and loss accounts of a banking company need not be disclosed to the various authorities under the Industrial Disputes Act." It will not be proper for me to refer to the statement of objects and reasons for the purpose of determining whether a particular Act is declaratory or not. I asked counsel who were appearing for the banks to point out any provision of any other law which conferred this privilege upon the banking companies and which prevented the production and inspection of such documents and the disclosure of such statements or information, but so far, my attention has not been drawn to any such provision. I am not inclined to regard the Act as merely declaratory of existing rights.

38. It was urged by Shri Nargolkar that by sub-section (2) of section 34A a change has been effected in the forum as regards the determination of the question about the amount that may be taken into account out of the reserves and provisions referred to in section 34A(1) and that the provisions are not retrospective. In my view, what has been done by the provisions of sub-section (2) of section 34A is to provide conclusive evidence of certain matters without further investigation by the

tribunal. The Reserve Bank in issuing a certificate has not to exercise any judicial or quasi-judicial functions. Such change by the legislature cannot be regarded as constituting a change of forum during the pendency of any proceedings.

39. In view of what I have stated above, I hold that the Banking companies are entitled in the present proceedings pending before me to make the claim referred to in section 34A(1) of the Banking Companies (Amendment) Act, 1960.

KANTILAL T. DESAI,
Presiding Officer,
National Industrial Tribunal,
(Bank Disputes), Bombay-1.

APPENDIX "E"

BEFORE THE NATIONAL INDUSTRIAL TRIBUNAL (BANK DISPUTES) AT BOMBAY

MISCELLANEOUS APPLICATION No. 291 of 1960

IN

REFERENCE No. 1 of 1960

The State Bank of India Staff Union, Andhra Pradesh, Vijayawada .. Applicant
versus

The State Bank of India Opponent.

In the matter of an Application, dated 14th September 1960 of the State Bank of India Staff Union, A. P. Vijayawada for bringing on Record the Reserve Bank of India as a party to : Reference No. 1 of 1960.

PRESENT:

The Honourable Shri Justice K. T. Desai, Presiding Officer, National Industrial Tribunal (Bank Disputes), Bombay-1.

APPEARANCES:

Shri S. Laxminarasinhham for the Applicant.

Sarvashree Sachin Chaudhary and P. P. Khambatta, Counsel instructed by Shri R. Setlur of M/s. Crawford Bayley & Co., Solicitors, for the Opponent.

Shri N. A. Palkhiwalla, Counsel instructed by Shri R. Setlur of M/s. Crawford Bayley & Co., Solicitors, for the Reserve Bank of India.

Shri N. A. Palkhiwalla Counsel instructed by Shri R. Setlur of M/s. Crawford Bayley & Co., Solicitors, for the Bombay Exchange Banks Association.

Sarvashree Sachin Choudhary & S. D. Vimadalal, Counsel instructed by Shri R. Setlur of M/s. Crawford Bayley & Co., Solicitors, for 8 Subsidiary Banks of the State Bank of India.

Sarvashree R. J. Kolha, N. V. Phakde & K. H. Bhabha, Counsel instructed by Sarvashree N. K. Petigara & J. P. Thacker of M/s. Mulla & Mulla, and Craigie Blunt & Careem Solicitors for Indian Banks Association.

Shri S. P. Sawhney for the Northern India Banks Association.

Shri A. S. Asayakar, Advocate, for the Travancore Cochin Bankers Association.

Shri C. R. Iyyunni for the Catholic Syrian Bank Ltd.

Shri D. B. Tilak, Advocate, for the Bharatha Lakshmi Bank Ltd., The Bank of Nagpur Ltd., The Union Bank of Bijapur & Sholapur Ltd. & Chaldean Syrian Bank Ltd.

Sarvashree N. K. Petigara & J. P. Thacker of M/s. Mulla & Mulla & Craigie Blunt & Caroe, Solicitors, for the Miraj State Bank Ltd.

Shri R. Balkrishna Kini for the Pandyan Bank Ltd.

Shri Raman Kutty for the Gadodia Bank Ltd

- Shri D. S. Nargolkar, Advocate, for the All India Bank Employees' Association and the All India Reserve Bank Employees' Association.
- Shri C. L. Dudhia, Advocate, for the All India Bank Employees' Federation, the Vadodara Rajya Bank Nokar Sangh, The Surat Bank Employees Union and the State Bank of Patiala (All Cadres) Employees' Association.
- Shri Jyoti Ghose for the State Bank of India Employees Association (Bengal and Delhi Circles).
- Shri S. S. Kavlekar, Advocate, for the All India State Bank of India Staff Federation.
- Shri H. K. Sowani, Advocate, for the All India Bank of Baroda Employees' Federation and for Indian Overseas Bank Employees Union.
- No appearance for the All India Reserve Bank 'D' Class Employees' Union.

INDUSTRY: BANKING

Bombay, 18th November 1960

ORDER

1. The State Bank of India Staff Union, Andhra Pradesh, Vijayawada, on behalf of the workmen of the State Bank of India has filed an application praying that the Tribunal may bring on record the Reserve Bank of India as a party to Reference No. 1 of 1960, in relation to the dispute between the State Bank of India and its workmen. In the application it has been stated that under the State Bank of India Act, 1955, the Reserve Bank of India is in reality the proprietor of the State Bank of India. In support of the contention, it is stated that under the State Bank of India Act, the entire issued capital of the State Bank on the appointed day, i.e. July 1, 1955 stood allotted to the Reserve Bank of India. It is further stated that the State Bank of India is only a pseudonym or as alias for the Reserve Bank of India, and that it was in the interest of justice that the Reserve Bank of India should formally appear on the record.

2. The application has been supported by the State Bank of India Staff Federation and the All India Bank Employees Federation. The application has been resisted by the State Bank of India and the Reserve Bank of India. It is also resisted by the Indian Banks Association and some Associations of workmen.

3. It is urged on behalf of the State Bank of India and the Reserve Bank of India that the Tribunal has no jurisdiction to add the Reserve Bank of India as a party to Reference No. 1 of 1960. It is also contended that on the merits no case has been made out for adding the Reserve Bank of India as a party to the Reference.

4. The State Bank of India is a Corporation constituted under the State Bank of India Act, 1955. By section 3(2) of the said Act it is provided as follows:— "The Reserve Bank, together with such other persons as may from time to time become shareholders in the State Bank in accordance with the provisions of this Act, shall, so long as they are shareholders in the State Bank, constitute a body corporate with perpetual succession and a common seal under the name of the State Bank of India, and shall sue and be sued in that name". By section 5(1) it is provided as follows:—"The issued capital of the State Bank shall, on the appointed day, be five crores, sixty-two lacs and fifty thousand rupees divided into five lacs, sixty-two thousand and five hundred shares, all of which shall, on the appointed day, stand allotted to the Reserve Bank in lieu of the shares of the Imperial Bank transferred to and vested in it under section 6". Section 3(2) itself indicates that there may be shareholders in the State Bank other than the Reserve Bank. An affidavit has been made on behalf of the State Bank of India showing that on the date of the Reference, i.e., 21st March 1960 the shareholders in the State Bank were (i) the Reserve Bank holding 5,18,330 shares and (ii) other persons holding 44,170 shares. On 26th September 1960, the date on which the said affidavit was made, the Reserve Bank of India held 5,18,380 shares whilst other persons held 44,120 shares. The Reserve Bank of India has been constituted as a Corporation under the Reserve Bank of India Act, 1934. It is not possible to equate the

shareholder or shareholders of any Bank, with the Corporation of which the shares have been held. A Corporation is a separate and distinct entity from the shareholders, and it is not possible to say that the State Bank of India is only a pseudonym or an alias for the Reserve Bank of India.

5. Various provisions of the State Bank of India Act, 1955, have been relied upon by Shri S. Laxminarasimham who appeared on behalf of the applicant. Section 36 of the Act which has been relied upon provides as follows :—

- “36. (1) The State Bank shall maintain a special fund to be known as the Integration and Development Fund into which shall be paid—
- (a) the dividends payable to the Reserve Bank on such shares of the State Bank held by it as do not exceed fifty five per cent. of the total issued capital; and
 - (b) such contribution as the Reserve Bank or the Central Government may make from time to time.
- (2) The amount in the said Fund shall be applied exclusively for meeting—
- (a) losses in excess of such yearly sum as may be agreed upon between the Reserve Bank and the State Bank and attributable to the branches established in pursuance of sub-section (5) of section 16 ;
 - (aa) subsidies granted by the State Bank to a subsidiary Bank with the approval of the Reserve Bank ; and
 - (b) such other losses or expenditure as may be approved by the Central Government in consultation with the Reserve Bank.
- (3) Subject to the provisions of sub-section (2), the said Fund shall be the property of the Reserve Bank and no shareholder of the State Bank or any other person shall have any claim to the amount held in the said Fund.”

Reliance has also been placed on sub-sections (3) and (5) of section 16 of the Act, which provides as follows :—

“16. * * * *

- (3) The State Bank shall maintain as its branches or agencies all branches or agencies of the Imperial Bank which were in existence in India immediately before the appointed day, and no such branch may be closed without the previous approval of the Reserve Bank.
- (4) * * * *
- (5) Notwithstanding anything contained in sub-section (4), the State Bank shall establish not less than four hundred branches in addition to the branches referred to in sub-section (3) within five years of the appointed day or such extended period as the Central Government may specify in this behalf, and the places where such additional branches are to be established shall be determined in accordance with any such programme as may be drawn up by the Central Government from time to time in consultation with the Reserve Bank and the State Bank, and no branch so established shall be closed without the previous approval of the Reserve Bank”.

Section 18 of the Act, which has been relied upon, provides that in the discharge of its functions including those relating to a subsidiary bank, the State Bank shall be guided by such directions in matters of policy involving public interest as the Central Government may, in consultation with the Governor of the Reserve Bank and the Chairman of the State Bank, give to it. Sections 32 and 50 of the Act, which have also been invoked in support of the application, provide as follows :—

- “32. (1) The State Bank shall, if so required by the Reserve Bank, act as agent of the Reserve Bank at all places in India where it has a branch or where there is a branch of a subsidiary bank and where there is no branch of the banking department of the Reserve Bank, for
- (a) paying, receiving, collecting and remitting money, bullion and securities on behalf of any Government in India; and
 - (b) undertaking and transacting any other business which the Reserve Bank may from time to time entrust to it.
- (2) The terms and conditions on which any such agency business shall be carried on by the State Bank on behalf of the Reserve Bank shall be such as may be agreed upon.

- (3) If no agreement can be reached on any matter referred to in sub-section (2) or if a dispute arises between the State Bank and the Reserve Bank as to the interpretation of any agreement between them, the matter shall be referred to the Central Government and the decision of the Central Government thereon shall be final.
- (4) The State Bank may transact any business or perform any functions entrusted to it under sub-section (1) by itself or through a subsidiary bank or through an agent approved by the Reserve Bank.
- 50(1) The Central Board may, after consultation with the Reserve Bank and with the previous sanction of the Central Government make regulations, not inconsistent with this Act and the rules made thereunder, to provide for all matters for which provision is expedient for the purposes of giving effect to the provisions of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for—

* * * * *

- (n) the duties and conduct of officers, other employees, advisers and agents of the State Bank.
- (o) the establishment and maintenance of superannuation pension, provident or other funds for the benefit of the employees of the State Bank or of the dependents of such employees or for the purposes of the State Bank, and the granting of superannuation allowances, annuities and pensions payable out of any such fund."

6. None of these provisions in any manner establish that the State Bank of India is the same as the Reserve Bank of India or that the name State Bank of India is only a pseudonym or an alias for the Reserve Bank of India. Section 32 itself contains provisions relating to a dispute between the State Bank and the Reserve Bank. The State Bank is required to act as the Agent of the Reserve Bank as provided in the said section. The Reserve Bank no doubt is interested in the State Bank. The Reserve Bank is required to be consulted in connection with various matters relating to the State Bank. That, however, does not in any sense mean that the Reserve Bank and the State Bank are the same. They are distinct and separate entities constituted under different enactments.

7. In the course of the hearing before me, it was argued that even though the State Bank and the Reserve Bank may not be the same, yet the Reserve Bank should be added as a party to the Reference as a proper party to the same. In this connection, in addition to the aforesaid provisions of the State Bank of India Act, 1955, reference was made to section 10(1)(b)(iii) of the Banking Companies Act, 1949, whereunder it is provided that no banking company shall employ or continue the employment of any person whose remuneration is, in the opinion of the Reserve Bank, excessive. For the purpose of showing that the Tribunal has jurisdiction to do so, reliance has been placed upon the provisions contained in sub-section (3) of section 18 of the Industrial Disputes Act. By that section it is provided as under:—

"18 (1) * * *

(2) * * *

(3) A settlement arrived at in the course of conciliation proceedings under this Act or an award of a Labour Court, Tribunal or National Tribunal which has become enforceable shall be binding on—

- (a) all parties to the industrial dispute;
- (b) all other parties summoned to appear in the proceedings as parties to the dispute, unless the Board, Labour Court, Tribunal or National Tribunal, as the case may be, records the opinion that they were so summoned without proper cause;
- (c) where a party referred to in clause (a) or clause (b) is an employer, his heirs, successors or assigns in respect of the establishment to which the dispute relates;
- (d) where a party referred to in clause (a) or clause (b) is composed of workmen, all persons who were employed in the establishment or part of the establishment, as the case may be, to which the dispute

relates on the date of the dispute and all persons who subsequently become employed in that establishment or part"

It is urged that sub-section 3(b) refers to persons other than persons named as parties to the industrial dispute. It is urged that the sub-section 3(b) clearly indicates that a National Tribunal has jurisdiction to summon a person to appear in the proceedings as a party to the dispute even though that person may not have been named in the reference as a party to the same. It is urged that in connection with adding parties, a National Tribunal has the same powers as those possessed by a Civil Court under the provisions contained in Order 1, rule 10 of the Code of Civil Procedure and that the Reserve Bank of India being vitally interested in the State Bank of India would be a proper party to Reference No. 1 of 1960 and should be brought on record as a party to the proceedings. Under the provisions of Order 1, rule 10 a Court has power to add as a party to a proceeding a person who may either be a necessary or a proper party thereto. A person is considered to be a proper party to a proceeding in a Civil Court where the presence of the party is necessary to effectually and completely adjudicate upon the dispute before the Court and to give a complete and final relief. Even under the provisions contained in Order 1, rule 10 it is not enough if a party is merely interested in the dispute.

8. In this connection, strong reliance has been placed upon a decision of the Federal Court reported in A.I.R. 1941 Federal Court, p. 16: *United provinces vs. Mt. Atiga Begum and others*. A Full Bench of that Court in that case held that a person would be a necessary party if he ought to have been joined, that is to say, in whose absence no effective decree can be passed at all. He would be a proper party to be impleaded if his presence is necessary for an effectual or complete adjudication. In the present case, it cannot be said that the presence of the Reserve Bank is necessary as a party to Reference No. 1 of 1960. It cannot be said that in the absence of the Reserve Bank no effective award can be passed at all against the State Bank of India. It cannot further be said that the Reserve Bank is a summoned to appear in the proceedings" as parties to the dispute, necessarily for an effectual or complete adjudication. If an award is made against the State Bank of India, it would be effectual and complete and the workmen of the State Bank of India would get an effectual and complete relief.

9. Reliance has been placed by Shri Laxminarasinhm on a decision reported in A.I.R. 1929 Madras 443: *The Secretary of State and another vs. Murugesu Mudaliar and others*. In that case, a suit had been filed by the plaintiff in the Munsif's Court for a declaration that he was a duly elected member of the Chingleput District Board. He impleaded as defendants the District Board of Chingleput and the President of that Board. He prayed not only for a declaration as stated above but also for the issue of a mandatory injunction directing the defendants to recognise him as a duly elected member of the District Board. The Government applied to the lower Court for being added as a party. That application was refused by the District Munsif and a civil revision petition was filed against that order by the Government. In that case, Mr. Justice Venkatasubba Rao set aside the order of the District Munsif and directed the Government to be made a party to the proceedings. In the course of his judgment the learned Judge observed that there were several sections in the Madras Local Boards Act (1920) vesting in the Government power of control over the Local Boards and empowering the Local Government to suspend by order in writing, the execution of any resolution of any Local Board. He thereafter refers to the distinction which existed between (i) persons who ought to have been joined and (ii) persons whose presence was necessary to enable the Court to completely and effectively adjudicate upon and settle all the questions involved in the suit. He held in the facts of that case that the presence of the Government was necessary to enable the Court to completely and effectively adjudicate upon and settle all the questions involved in the suit and directed the Government to be added as a party. This decision only re-affirms the principle that a person whose presence is necessary to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit could be joined as a proper party to the proceedings. On the facts of the present case, the presence of the Reserve Bank is not necessary to enable this National Tribunal to effectually and completely adjudicate upon and settle all the questions involved in the proceedings. No case has been made out for adding the Reserve Bank as a party to the Reference and the application is in any event liable to be dismissed.

10. It has been strongly urged before me that the provisions of Order 1, rule 10 are not applicable to the proceedings before me and that I have no jurisdiction to make an order of the nature asked for by the applicant. In answer to this argument, Shri S. Laxminarasinhm strongly relied upon two decisions of the Madras

High Court. The first decision relied upon by him is the one reported in 1954 I. L.L.J. 295: *Radhakrishna Mills Ltd. vs. Industrial Tribunal, Madras and others*. In that case Mr. Justice P. Govinda Menon held that section 18(b) of the Act necessarily implied that parties other than the original parties to an industrial dispute could be summoned as parties to the proceeding. He held that, therefore, by necessary implication there was vested in the Industrial Tribunal a power to add any person or establishment whose presence was necessary or proper for the due and just adjudication of the disputes and make them parties to the proceeding. He further held that clause (b) of section 18 when it spoke of "all other parties summoned to appear in the proceedings" as parties to the dispute, necessarily implied some persons other than the original parties to the dispute or persons whom the State Government had subsequently added under section 10(5) summoned to appear in order that the award may become enforceable and binding on those parties also. He held that section 18(b) is similar to order 1, rule 10(2) of the Civil Procedure Code.

11. This decision followed an earlier decision given by a Division Bench of the Madras High Court in the case of *P. G. Brookes vs. The Industrial Tribunal, Madras, and others* reported in 1953 II L.L.J. p. 1. A Division Bench of the Madras High Court in that case held that while section 18(a) of the Industrial Disputes Act dealt with all parties (to the reference) to the industrial dispute, section 18(b) referred to all other parties summoned to appear as parties in the dispute. The judges held that this necessarily implied that parties other than the original parties to an industrial dispute could be summoned as parties to the proceeding and that such parties could be summoned at the instance of a party or *suo motu* by the Tribunal by issuing notice to them. According to them, section 18(b) by necessary implication gave power to the Tribunal to add parties. They further held that the expression "other parties summoned to appear as parties in the dispute" could only mean persons who are affected by or interested in the dispute i.e. necessary or proper parties. They have observed that section 18(b) though apparently wide in terms was intended to take only necessary or proper parties and would not include parties against whom no relief was claimed or whose presence was not necessary for adjudicating the dispute between the parties.

12. Reliance was placed upon a decision reported in 55 B.L.R. at page 334: *Sitaram Hirachand Bria Vs. Yograising Shankarsing Parihar*, where a Division Bench of the Bombay High Court consisting of Chief Justice Chagla and Shri Justice Dixit held in connection with a matter arising under the Representation of the People Act that the Election Tribunal had power to add parties to the election petition under section 90(2) of that Act. That section provides as under:—

"Subject to the provisions of this Act and of any rules made thereunder, every election petition shall be tried by the Tribunal, as nearly as may be, in accordance with the procedure applicable under the Code of Civil Procedure, to the trial of suits."

After considering the meaning of the expression "shall be tried by the Tribunal", having regard to the wording used in that sub-section, the Court held that the Election Tribunal had power to add parties to the election petition. That decision turns upon the provisions contained in section 90(2) of the Representation of the People Act and does not give much guidance in determining the question raised before me.

13. It has been strongly urged on behalf of the State Bank of India and the Reserve Bank of India that the National Tribunal has not the same powers as regards addition of parties which a Civil Court has under the provisions contained in Order 1, rule 10 of the Code of Civil Procedure. My attention has been drawn to the provisions contained in section 11(3) of the Industrial Disputes Act where the legislature has in express terms provided that a National Tribunal would have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908, when trying a suit in respect of the matters therein set out. Addition of parties is not one of the matters set out in that sub-section. The question raised before me, however, is whether such a power can be said to have been conferred by necessary implication having regard to the language used in section 18 of the Industrial Disputes Act, 1947. Sub-section (3) of section 18 refers to four different categories of persons who would be bound by the award of a National Tribunal. Sub-section (b) refers to "all other parties summoned to appear in the proceedings as parties to the dispute". This expression must of necessity refer to parties other than the parties referred to in sub-section (a). From this it must follow by necessary implication that a National Tribunal would have power to summon a person to

appear as a party to the dispute even though that person may not be a party to the industrial dispute mentioned in the reference. Such a person would be bound by the Award made by the National Tribunal unless the National Tribunal recorded the opinion that such a person was summoned without proper cause. The question would still survive whether a National Tribunal has the same powers which a Civil Court has in connection with the addition of parties under the provisions contained in Order 1, rule 10 of the Code of Civil Procedure. It is urged that there are two distinctive features which distinguish a suit from a proceeding before a National Tribunal. The proceedings in a Civil Court can be instituted at the volition of a party. The proceedings before a National Tribunal can only be instituted on a reference made by the Central Government. When a matter is instituted in a Court of law, it is instituted ordinarily for the adjudication of existing rights and obligations between the parties. The dispute that may be referred to a National Tribunal may or may not relate to the enforcement of existing rights and obligations. A dispute may be referred to a National Tribunal for the purpose of laying down fresh terms of employment between an employer and his employees. Under the provisions of the Industrial Disputes Act, 1947, a National Tribunal has power by its award to lay down terms and conditions which would bind the employers and employees and to create new rights and obligations. It is not necessary for the purpose of the present proceedings to decide whether the power is similar to the power exercised by a Civil Court under the Code of Civil Procedure. Suffice it to say that there is no power in the National Tribunal to add a person as a party to the dispute merely because that party is in some way interested in the dispute.

14. In the result, the application fails and is dismissed.

KANTILAL T. DESAI,

*Presiding Officer,
National Industrial Tribunal,
(Bank Disputes), Bombay-1.*

APPENDIX "F"

BEFORE THE NATIONAL INDUSTRIAL TRIBUNAL (BANK DISPUTES) AT BOMBAY

MISCELLANEOUS APPLICATION NO. 1 OF 1961

IN

REFERENCE NO. 1 OF 1960.

- (1) The State Bank of India Staff Union, Andhra Pradesh,
Vijayawada.
- (2) The State Bank of India Staff Union, Madras Circle, Madras .. *Petitioners*

versus

The State Bank of India, Bombay *Respondent.*

In the matter of an application dated 2nd January 1961 for the issue of summons for production of documents.

PRESENT:

The Honourable Shri Justice Kantilal T. Desai, Presiding Officer, National Industrial Tribunal (Bank Disputes), Bombay.

APPEARANCES:

Shri Laxminarsinham for the Petitioners.

Shri P. P. Khambata instructed by Shri R. Setlur of Messrs. Crawford Bayley & Company, Solicitors, for the Respondent.

INDUSTRY: BANKING.

Bombay, dated 16th January 1961.

ORDER

1. The State Bank of India Staff Union, Andhra Pradesh, and the State Bank of India Staff Union, Madras Circle, have filed an application before me for the issue of a summons to the Reserve Bank of India, Bombay, directing the Reserve Bank of India to produce through any of its employees the returns submitted by the State Bank of India to the Reserve Bank of India under sections 25 and 27 of the Banking Companies Act during the years 1955 to 1960. It is stated that the said documents are relevant and essential for the decision of the dispute between the State Bank of India and its workmen pending before this Tribunal.

2. Section 25(2) of the Banking Companies Act lays down that every banking company shall, within one month from the end of every quarter, submit to the Reserve Bank a return in the prescribed form and manner of the assets and liabilities referred to in sub-section (1) as at the close of business or the last Friday of the previous quarter, or, if that Friday is a public holiday under the Negotiable Instruments Act, 1881 (26 of 1881), at the close of business on the preceding working day. Sub-section (1) of section 25 provides as under:

"The assets in India of every banking company at the close of business on the last Friday of every quarter or, if that Friday is a public holiday under the Negotiable Instruments Act, 1881 (26 of 1881), at the close of the business on the preceding working day, shall not be less than seventy-five per cent. of its demand and time liabilities."

By sub-section 3(b) of section 25 it is provided that the expression "liabilities in India" for the purpose of that section will not include the paid-up capital or the reserves or any credit balance in the profit and loss account of the banking company. Section 27 of the Act provides that every banking company shall before the close of the month succeeding that to which it relates submit to the Reserve Bank a return in the prescribed form and manner showing its assets and liabilities in India as at the close of business on the last Friday of every month or if that Friday is a public holiday under the Negotiable Instruments Act, 1881, at the close of business on the preceding working day. Sub-section (2) of that section provides that the Reserve Bank may at any time direct a banking company to furnish it within such time as may be specified by the Reserve Bank, with such statements and information relating to the business or affairs of the banking company (including any business or affairs with which such banking company is concerned) as the Reserve Bank may consider necessary or expedient to obtain for the purposes of the Act, and without prejudice to the generality of the foregoing power may call for information every half-year regarding the industry.

3. Notice of this application was given to the State Bank of India. The State Bank of India has resisted this application contending that the returns submitted by the State Bank of India to the Reserve Bank of India under sections 25 and 27 of the Banking Companies Act are the documents of the State Bank of India and that they were confidential in nature. The State Bank of India has further claimed that the production and disclosure of such returns would involve disclosure of information relating to reserves not shown as such in the State Bank's and its predecessors' published Balance Sheets and particulars not shown in the State Bank's and its predecessors' Balance Sheets in respect of provisions made for bad and doubtful debts and other usual or necessary provisions by the bank. It is further stated that if the said returns were compared with the published balance sheets of the State Bank of India and its predecessors, it would disclose information relating to reserves not shown as such in the State Bank's and its predecessors' published balance sheets and particulars not shown in the State Bank's and its predecessors' balance sheets in respect of provisions made for bad and doubtful debts and other usual or necessary provisions made by the Bank. On behalf of the State Bank of India privilege was claimed from production and disclosure of the said returns, whether through the hands of the Reserve Bank of India or otherwise. It is further stated that the State Bank of India was writing to the Reserve Bank of India to the effect that it did not consent to the Reserve Bank of India producing the said returns and that it had claimed and claims privilege in connection with the production, disclosure and furnishing of the said returns.

4. The petitioners have filed an affidavit in rejoinder in which it has been contended that the returns submitted to the Reserve Bank of India "become the documents of the Reserve Bank of India and cannot any longer be the documents of the State Bank of India, though they may relate to the State Bank of India". It is further contended that the privilege conferred under section 34-A of the

Banking Companies Act does not extend to documents belonging to a third party summoned to produce the same as a witness. It is further contended that the production of the documents referred to in the application was a matter between the petitioners and the Tribunal and that the State Bank of India was not entitled to be heard in connection therewith.

5. I directed notice of the application to be given to the State Bank of India as the State Bank of India is vitally interested in the production of the documents referred to in the application. The petitioners, when they filed an application for discovery of documents in the possession of the State Bank of India did not apply for the production of the copies of such returns submitted by the State Bank of India even though the returns were relevant to the matter under adjudication. Under the provisions contained in section 34-A of the Act as the State Bank claims privilege in connection with such returns in the terms laid down in that section, the State Bank is not compellable to produce copies of such returns. This application has been made with a view to circumvent the provisions of section 34-A and get the original returns produced when copies thereof in the possession of the State Bank of India could not otherwise be got produced. I considered that it was just and proper to hear the State Bank of India in connection with the present application and I have heard counsel for the State Bank in connection therewith.

6. It is urged on behalf of the petitioners that section 34-A of the Banking Companies Act, 1949, merely provides that no banking company can be compelled by the Tribunal to produce, or give inspection of, any of its books of account or other document or furnish or disclose any statement or information, when the banking company claims that such document, statement or information is of a confidential nature and that the production or inspection of such document or the furnishing or disclosure of such statement or information would involve disclosure of information relating to (a) any reserves not shown as such in its published balance sheet, or (b) any particulars not shown therein in respect of provisions made for bad and doubtful debts and other usual or necessary provisions. It is urged that this section does not prevent any evidence being given by any other person in connection with the documents, statements or information referred to in that section. The legislature has not laid down by that section that no evidence could be led in connection with such documents, statements or information. The legislature has confined the operation of the section to the banking company concerned being compelled in connection with the production or the giving of inspection of its books of account or other documents or the furnishing or disclosure by such banking company of any statement or information of the kind set out in the section. In my view, there is nothing in that section which by itself would preclude evidence being given by other persons in connection with such documents, statements or information.

7. Strong reliance has been placed on behalf of the State Bank of India on the provisions contained in section 28 of the Banking Companies Act, 1949. That section provides that the Reserve Bank, if it considers it in the public interest so to do, may publish any information obtained by it under the Banking Companies Act in such consolidated form as it thinks fit. Under the Banking Companies Act itself, having regard to the provisions contained in section 29 of that Act and form B in Schedule III, it is open to a bank not to show in its profit and loss account any "provisions made during the year for bad and doubtful debts and other usual or necessary provisions". When returns are filed under sections 25 and 27 of the Act, which would lead to the disclosure of any reserves not shown as such in the published balance sheet or any particulars not shown therein in respect of provisions made for bad and doubtful debts and other usual or necessary provisions, the legislature has provided the necessary safeguards by section 28. The Reserve Bank is given liberty to publish information so obtained only in the manner set out in the said section 28, viz. in such consolidated form as it thought fit, and that too if the Reserve Bank considered it in the public interest so to do. This section postulates that information so derived could only be published in a consolidated form in the interest of the public. It follows therefrom that the Reserve Bank is not at liberty to publish such information obtained by it in any other form and except in the public interest. The information so furnished is information of a confidential nature. The production of the returns by the Reserve Bank would be contrary to the intentment of the Act. In my view the petitioners are not entitled to have the said documents produced by the Reserve Bank of India.

8. It is urged by Shri Laxminarsinhani that once statements are furnished under sections 25 and 27 of the Act by the State Bank of India to the Reserve

Bank of India, they cease to be the property of the State Bank of India and become the property of the Reserve Bank of India. Shri Khambata contests this proposition. It is not necessary for the purpose of the present application to determine whether the documents cease to be the property of the State Bank on the same being furnished to the Reserve Bank of India. Whether the documents constitute the property of the State Bank or of the Reserve Bank, in my view, they are not liable to be produced.

9. Shri Laxminarsinhham has further contended that the Tribunal is a Court within the meaning of the Indian Evidence Act, 1872, and has relied upon the definition of the expression "Court" given in section 3 of the Indian Evidence Act. He contends that under the provisions of section 162 of the Indian Evidence Act, a witness summoned to produce a document is bound, if it is in his possession or power, to bring it to Court, notwithstanding any objection which there may be to its production or to its admissibility and that the validity of any such objection is then to be decided on by the Court. It is not necessary for the purpose of the present application to determine whether a Tribunal is a Court within the meaning of the Indian Evidence Act, 1872. Section 162 applies after a witness is summoned to produce a document, it is then the duty of the witness to produce it in Court, even though that witness may have an objection to its production or to its admissibility. I am at present considering the question before the issue of a summons to the Reserve Bank of India to produce the returns. That section has no application to the facts of the present case. Before issuing a summons to a witness to produce any document, I have to consider whether I should in the exercise of my power issue such a summons to the witness or not. Having regard to the facts and circumstances of the case, I do not consider it either just or proper to issue a summons to the Reserve Bank of India to produce the documents mentioned in the application.

10. In the result, the application fails and is dismissed.

KANTILAL T. DESAI,
Presiding Officer,
National Industrial Tribunal
(Bank Disputes), Bombay.

APPENDIX "G"

BEFORE THE NATIONAL INDUSTRIAL TRIBUNAL (BANK DISPUTES) AT BOMBAY

MISCELLANEOUS APPLICATION No. 2 OF 1961

WITH

MISCELLANEOUS APPLICATION NOS. 3 AND 4 OF 1961

IN

REFERENCE No. 1/60.

Miscellaneous Application No. 2 of 1961,

dated 19th January 1961

The All India Bank Employees' Federation, C/o Shri C. L. Dudhia,
Advocate, Vithal Sadan, Vithalbhair Patel Road, Bombay-4 .. *Applicant*

versus

The Banking Companies and Corporations specified in Schedule No. I
to the Order No. S.O. 705, dated the 21st March 1960 and in the
Schedule to the Order, dated 4th June 1960 of the Government
of India in the Ministry of Labour and Employment, New
Delhi *Opponents.*

*Miscellaneous Application No. 3 of 1961,**dated 20th January 1961*

All India Bank of Baroda Employees' Federation, Bombay .. Applicant

*versus*The Bank of Baroda Ltd., and other Banking Companies and
Corporations covered by the Reference .. Opponents.*Miscellaneous Application No. 4 of 1961,**dated 20th January 1961*

Indian Overseas Bank Employees' Union, Madras .. Applicant

*versus*The Indian Overseas Bank Ltd., and Banking Companies and
Corporations covered by the Reference .. Opponents.In the matter of Application for furnishing the certificates by the Reserve Bank of
India under Section 34-A of the Banking Companies Act, 1949.**PRESENT:**The Honourable Shri Justice Kantilal T. Desai, Presiding Officer, National
Industrial Tribunal (Bank Disputes), Bombay.**APPEARANCES:**

- (1) Shri C. L. Dudhia, Advocate, for the applicant in Miscellaneous Application No. 2 of 1961.
- (2) Shri H. K. Sowani, Advocate, for the applicants in Miscellaneous Application Nos. 3 and 4 of 1961.
- (3) Shri K. T. Sule, Advocate, for the All India Bank Employees' Association.
- (4) Shri Nagarkatti for the All India State Bank of India Staff Federation.
- (5) Shri Jyoti Ghose for the State Bank of India Employees' Association (Bengal and Delhi Circles).
- (6) Shri Ekambaran for the State Bank of India Staff Union, Andhra Pradesh, Vijayawada, and Madras Circle.
- (7) Sarvashree N. V. Phadke and K. H. Bhabha, Counsel, instructed by Sarvashree N. K. Petigara and J. P. Thacker of Messrs. Mulla and Mulla and Craigie Blunt and Caroe, Solicitors, for the Indian Banks' Association.
- (8) Shri R. Setlur, of Messrs. Crawford Bayley & Co., Solicitors, for the 8 subsidiary banks of the State Bank of India.
- (9) Shri P. P. Khambata, Counsel, instructed by Shri R. Setlur of Messrs. Crawford Bayley & Co., Solicitors, for the State Bank of India.
- (10) Shri D. B. Tilak, Advocate, Supreme Court of India, for the Bharat Lakshmi Bank Ltd., the Bank of Nagpur Ltd., the Union Bank of Bijapur and Sholapur Ltd., and the Chaldean Syrian Bank Ltd.
- (11) Shri A. S. Asayekar, Advocate, for the Travancore Cochin Bankers' Association.

INDUSTRY: BANKING.*Bombay, 20th January 1961.***ORDER**

1. The All India Bank Employees' Federation has made an application for the furnishing of certificates by the Reserve Bank of India under section 34-A of the Banking Companies Act, 1949. It is stated in the application that the same

was made without prejudice to the rights and contentions of the Federation in connection with the validity of the Banking Companies (Amendment) Act, 1960, whereby section 34-A was inserted in the Banking Companies Act, 1949. It is stated in the application that a question has arisen in the present proceedings for judging the financial capacity of each bank to bear any increased financial burden that may be imposed upon it as a result of the award that may be made and that I should direct the Reserve Bank of India to furnish to me in respect of each bank specified in the schedule annexed to the application, a certificate as contemplated by the provisions of section 34-A of the Banking Companies Act, 1949. A similar application has been made by the All India Bank of Baroda Employees' Federation and by the Indian Overseas Bank Employees Union, Madras.

2. The application is supported by the Surat Bank Employees' Union, the Vadodra Rajya Bank Noker Sangh and the State Bank of Patiala (All Cadres) Employees' Association. The application is opposed by the All India Bank Employees' Association, the State Bank of India Employees' Association (Bengal and Delhi Circles), the State Bank of India Staff Union, Andhra Pradesh, Vijayawada, and the State Bank of India Staff Union, Madras Circle. The All India State Bank of India Staff Federation, the State Bank of India and its subsidiaries and the Indian Banks Association have submitted to the orders of this National Tribunal. Shri Tilak and Shri Asavekar on behalf of the banks represented by them respectively have no objection to the application being granted.

3. The All India Bank Employees' Association has contended that the Reserve Bank is an interested party, that the Reserve Bank is opposed to any wage increase in connection with its own staff and that of other banks, that its certificates were likely to be on the lines on which the individual banks would like to have them, that once the certificates are issued they are bound to influence this National Tribunal, that the Association intended to challenge the validity of Section 34A of the Banking Companies Act at a later stage and did not want to compromise this issue in any manner and that it could not support the application. It is not necessary to set out the other grounds urged by Shri Sule on behalf of the All India Bank Employees' Association. The State Bank of India Staff Union, Andhra Pradesh, Vijayawada, and the State Bank of India Staff Union, Madras Circle, have also contended that section 34-A of the Banking Companies Act is invalid in law, that the Reserve Bank of India is a body deeply biased against the workmen of the banks and that it was not open to the All India Bank Employees' Federation or any other Organisation not representing the workmen of the State Bank of India to ask for such a certificate in relation to the State Bank of India. They have submitted that I should not refer the question at least so far as the State Bank of India is concerned to the Reserve Bank. Shri Ghose for the State Bank of India Employees' Association (Bengal and Delhi Circles) opposed the application *inter alia* on the grounds that the Reserve Bank was biased.

4. I have already held in Miscellaneous Application No. 10 of 1960 and other Miscellaneous Applications by my order dated on 31st October 1960 that Section 34A does not violate the fundamental rights guaranteed under Article 14 of the Constitution of India and that it is valid.

5. By the order of Reference dated 21st March 1960 the Central Government has referred the disputes in respect of matters specified in the Second Schedule thereto for adjudication. Among the matters so referred are the categorisation of Banks and areas for the purposes of the present adjudication scales of pay, the method of adjustment in the scales of pay and dearness allowance with particular reference to the question whether any part of the existing dearness allowance should be absorbed in the basic pay. The item relating to categorisation of banks is an item in which all the banks are interested. The banks have in the past been classified in various categories and different scales of pay have been provided in respect of banks according to their categorisation in different classes. All the banks falling within one class have the same scales of pay provided for them. In order to fix the scales of pay for different classes of Banks, it is necessary to consider the paying capacity of the banks falling within different classes. The employees of all the banks falling within one particular class would be interested in the scales of pay that may be fixed for that class and are further interested in showing the paying capacity of the banks falling within that class. They are also interested in the scales of pay in respect of Banks falling within other classes in so far as such scales of pay may have a bearing on the fixation of the scales of pay in respect of the class of the banks in which they are employed. They have a right to make the present application not merely in respect of the banks of which they are the employees but in respect of other banks also. In

my view, there is no substance in the contention that the All India Bank employees' Federation is not entitled to maintain the application in respect of the State Bank of India. In my view, all the applicants are entitled to maintain their respective applications in connection with the State Bank of India.

6. The question of the paying capacity of banks has been in issue before me. All the banks except the Exchange Banks have pleaded their inability to meet the demands of the workmen as made and it is necessary for me to determine the paying capacity of the banks in connection with any financial burden that may be imposed upon them. A large number of banking companies have claimed the protection afforded by section 34-A(1) of the Banking Companies Act, 1949. As a question has arisen as to whether any amount out of the reserves or provisions referred to in sub-section (1) of Section 34A should be taken into account by me in considering the financial capacity of the banks concerned to bear any increased burden that may be imposed upon them by reason of the award that I might make, I refer that question to the Reserve Bank of India in exercise of the powers conferred on me under sub-section (2) of Section 34A of the Banking Companies Act in connection with the 62 banks mentioned in the annexure to the aforesaid applications. The Reserve Bank should, after taking into consideration the principles of sound banking and all relevant circumstances concerning the aforesaid banking companies furnish to me a certificate in respect of each of the aforesaid banks as provided by sec. 34A(2) stating whether I should not take into account any amount as such reserves and provisions of the banking company concerned or may take them into account specifying the extent of the amount to which only I may so take them into account. A list of the banks in respect whereof the aforesaid certificates are required is hereto annexed and marked "A".

7. I am informed on behalf of the Reserve Bank of India that it will take about two months' time to furnish the requisite certificates.

KANTILAL T. DESAI,

*Presiding Officer,
National Industrial Tribunal
(Bank Disputes), Bombay-1.*

ANNEXURE "A"

1. Allahabad Bank Limited.
2. Ambat Bank Limited.
3. Bank of Baroda Limited.
4. Bank of India Limited.
5. Bank of Behar Limited.
6. Bank of Maharashtra Limited
7. Bank of Rajasthan Limited.
8. Bharatha Lakshmi Bank Limited.
9. Canara Bank Limited.
10. Canara Banking Corporation Limited.
11. Canara Industrial and Banking Syndicate Limited.
12. Catholic Syrian Bank Limited.
13. Central Bank of India Limited.
14. Chaldean Syrian Bank Limited.
15. Cochin Commercial Bank Limited.

16. Devkaran Nanjee Banking Company Limited.
17. Gadodia Bank Limited.
18. Hindustan Commercial Bank Limited.
19. Hindustan Mercantile Bank Limited
20. Indian Bank Limited.
21. Indian Insurance and Banking Corporation Limited.
22. Indian Overseas Bank Limited.
23. Jaya Lakxmi Bank Limited.
24. Jodhpur Commercial Bank Limited.
25. Karnataka Bank Limited.
26. Lakshmi Commercial Bank Limited.
27. Narang Bank of India Limited.
28. National Bank of Lahore Limited.
29. Nedungadi Bank Limited.
30. New Bank of Ind'a Limited.
31. Oriental Bank of Commerce Limited.
32. Pandyan Bank Limited.
33. Punjab Cooperative Bank Limited.
34. Punjab and Kashmir Bank Limited.
35. Punjab National Bank Limited.
36. Punjab and Sind Bank Limited.
37. Safe Bank Limited.
38. State Bank of Bikaner.
39. State Bank of Hyderabad.
40. State Bank of India.
41. State Bank of Indore.
42. State Bank of Jaipur.
43. State Bank of Mysore.
44. State Bank of Travancore.
45. South Indian Bank Limited.
46. Union Bank of India. Limited.
47. United Bank of India Limited.
48. United Industrial Bank Limited.
49. United Commercial Bank Limited.
50. Vijaya Bank Limited.
51. Vysya Bank Limited.
52. Andhra Bank Limited.
53. Ganesh Bank of Kurundwad Limited.
54. Miraj State Bank Limited.

55. Nadar Mercantile Bank Limited.
56. Pangal Nayak Bank Limited.
57. Rayalaseema Bank Limited.
58. Sangli Bank Limited.
59. State Bank of Patiala.
60. State Bank of Saurashtra.
61. Trivandrum Permanent Bank Limited.
62. Union Bank of Bijapur and Sholapur Limited

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P. M. MENON, Secy.

